

Clerk of the Peace & Inferior Courts

ACTS

OF THE

GENERAL ASSEMBLY,

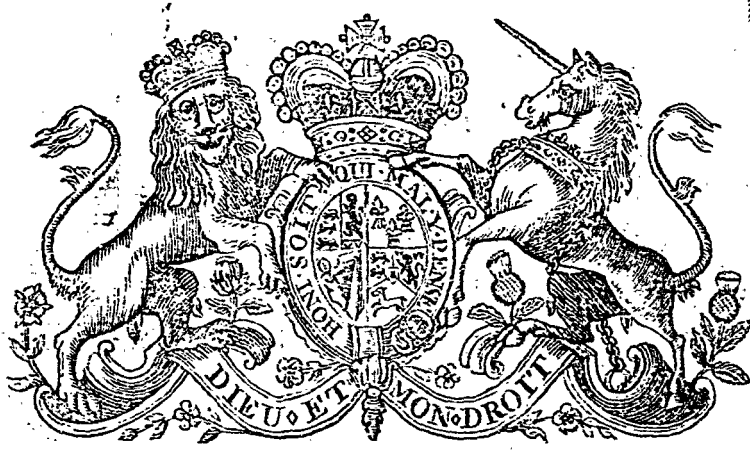
OF

HIS MAJESTY'S PROVINCE

OF

NEW-BRUNSWICK,

PASSED IN THE YEAR 1789.



ST. JOHN:

Printed by CHRISTOPHER SOWER, PRINTER to the
KING'S MOST EXCELLENT MAJESTY.

M D C C X C.

Rec. Aug. 14, 1906.

A N N O R E G N I

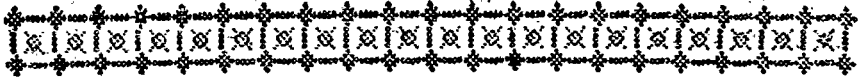
Georgii III. Regis

Magnæ Britanniae, Franciæ, & Hiberniæ,

V I C E S I M O N O N O.

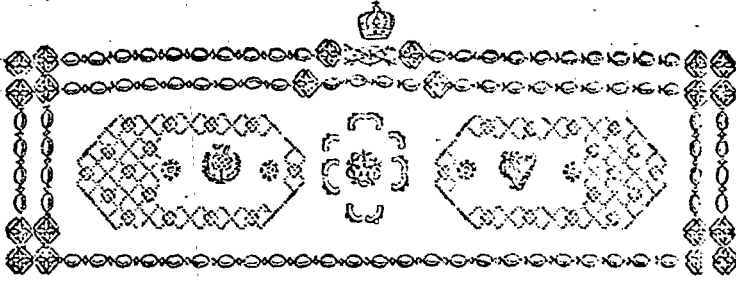
AT the GENERAL ASSEMBLY of the Province of NEW-BRUNSWICK begun and holden at the City of SAINT JOHN, on the THIRD day of JANUARY, Anno Domini 1786, in the twenty-sixth year of the reign of our sovereign LORD GEORGE the THIRD, by the Grace of GOD, of Great-Britain, France and Ireland, KING, Defender of the Faith, &c.

And from thence continued by several prorogations, to TUESDAY the SIXTH day of OCTOBER 1789, at FREDERICTON; being the FOURTH session of the first GENERAL ASSEMBLY of NEW-BRUNSWICK.



THE TITLES OF THE ACTS.

	<i>Page.</i>
I. A N act for erecting a Parish in the city of Saint John, and incorporating the Rectors, Church Wardens and Vestries of the Church of England in the several parishes in this province.	180
II. An act to repeal an act entitled "an act to empower the Foreman of the Grand Juries to administer the usual Oaths to such Witnesses as are to be examined before them."	182
III. An act in amendment of an act entitled "An act for assessing, collecting and levying County Rates."	183
IV. An act to authorise the erection of Fences and Gates across certain roads in the several counties in this province where the same shall be found necessary.	184
V. An act to continue and amend an act entitled "An act for regulating the Fisheries in the different rivers, coves and creeks, of this province."	186
VI. An act for laying an Impost.	188
VII. An act relating to the punishment of persons convicted of Felony within the benefit of clergy.	192
VIII. An act for reviving, continuing and amending sundry laws, that have expired and are near expiring.	193
IX. An act for appropriating and disposing of the public monies.	194

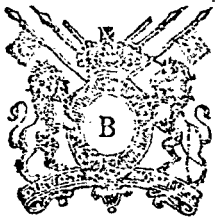


ANNO VICESIMO NONO

Georgii III. Regis.

C A P. I.

An ACT for erecting a PARISH in the CITY of SAINT JOHN, and incorporating the RECTORS, CHURCH WARDENS and VESTRIES of the CHURCH of ENGLAND in the several Parishes in this Province.



Be it enacted by the Lieutenant Governor, Council and Assembly, That the Parish of the Church commonly called and known by the name of TRINITY CHURCH, in the City of Saint John, shall comprehend all the lands lying and being in the City of Saint John, and shall be known and called by the name

The Parish of Trinity Church in the City of John, established.

of the Parish of Saint John.

II. *And be it further enacted, That the present Rector, Church Wardens and Vestry of the said Church, and their successors forever, shall be a body of politic and corporate in deed and name, and shall have succession forever by the name of "The Rector, Church Wardens and Vestry of TRINITY CHURCH in the Parish of Saint John," and by that name shall sue, and be sued, implead, and be impleaded, answer, and be answered unto,*

in

The Rector, Church Wardens and Vestry of the said Church & their successors, incorporated by the name of "The Rector, Church Wardens, and Vestry of Trinity Church in the Parish of St. John."

And to have capacity to purchase and receive for the use of the said Church, goods, chattels, lands, and tenements.

in all courts and places whatsoever in this province; and shall have full power and capacity to purchase, receive, take, hold, and enjoy for the use and benefit of the said Church, as well goods and chattels, as lands, tenements, and hereditaments, and improve and use the same for the benefit and advantage of the said Church according to their best discretion, and the true intent and meaning of the donors, where such goods and chattels, lands, tenements, or hereditaments, shall be given, devised, or bequeathed to the use and benefit of the said Church, any law, usage, or custom, to the contrary notwithstanding.—Provided always that the amount of the annual rents, profits, and receipts of such lands, tenements, goods, chattels, and hereditaments shall not exceed the sum of five hundred pounds.

The parishoners to meet on the first Monday after Easter in every year, at the said parish church, to chuse two church wardens and any number, not exceeding twelve, of vestry men.

III. *And be it further enacted*, That the parishoners of the said parish shall on the first Monday after Easter, for ever hereafter, yearly and every year assemble and meet together at the said Parish Church, and shall then and there by a plurality of voices, elect and chuse two fit persons belonging to the said parish to be Church Wardens for the year ensuing, and any number not exceeding twelve, of other fit persons, belonging to the said parish, to be Vestry-men for the year ensuing—who shall thereupon enter into the execution of their respective offices, and shall continue in the same until other fit persons shall be chosen in their stead.

The lots of land conveyed to the use of the said church and the said church lately erected on the said lots, vested in the said Rector, Church Wardens, and Vestry.

IV. *And be it further enacted*, That the several lots of land already purchased or conveyed to the use of the said Church, for the purpose of erecting the said Church thereon, and also the said Church lately erected on the said lots, shall be and remain fully and absolutely vested in the said Rector, Church Wardens and Vestry, and their successors for ever, as a good and absolute estate in *fee simple*, for the use, trust and benefit aforesaid, and shall be so deemed and taken in all Courts of Law and Equity in this province, any law, usage, or custom, to the contrary notwithstanding.

The Rector, Church Wardens and Vestry, to have power to sell or let to hire the pews of the Church—or the lands and by the improvement and use of goods, chattels, lands and tenements to finish & repair the Church

V. *And be it further enacted*, That the said Rector, Church-Wardens and Vestry, or the major part of them assembled, upon due notice publicly given, shall have full power and authority, to have, use, and take, all such ways, means, and methods, as in their discretion they shall think meet, by the absolute sale of, or by letting to hire, or other disposal of the pews of the said Church, or the said lands and ground. and by the improvement and use as aforesaid of such goods, chattels, lands, tenements, and hereditaments as shall be hereafter purchased or given to the use and benefit of the said Church, to compleat and finish the said Church, and repair the same from time to time, and to provide goods, furniture,

furniture, ornaments, and bells; and to pay the salaries and other allowances to the Rector, Organist, Clerk, and Sexton of the same Church, and to the Clerk of the Vestry; and to defray all other necessary future expenses for the use and benefit of the said Church.

Provide furniture, bells, &c. and pay the salaries of the Rector, Organist, Clerk, and Sexton, &c.

VI. *And be it further enacted*, That the Rectors, Church-Wardens and Vestries of the several and respective Churches already erected in the several and respective parishes in this province, and also of such Churches as shall be hereafter erected, and their respective successors for ever, shall, as soon as they are respectively inducted and appointed, be bodies politic and corporate in deed and name, and shall have succession for ever, by the name of, the Rector, Church Wardens and Vestry of the several and respective Churches to which they belong; and this act, and every clause, direction, authority and power in the same contained, shall extend and be in force for all such Churches, in the same manner as if the said clauses, directions, authorities and powers were particularly re-enacted and applied to such Churches respectively.

The Rectors, Church Wardens and Vestries of the churches erected and to be erected in the several parishes in the province incorporated.

VII. *And be it further enacted*, That in case of the death, or absence from the province, of the respective Rectors of the said Churches for the time being, and where no Rectors shall have been appointed, the Church Wardens and Vestry in such parishes, shall, during such vacancy or absence, have the full powers and authorities that are herein before given to the Rector, Church Wardens and Vestry of such Churches respectively.

In case of the death or absence of the Rectors, the Church Wardens and Vestry to have the same authority as the Rector, Church Wardens, &c.

VIII. *And be it further enacted*, That henceforth no corpse shall be interred within or under the said Church in the City of Saint John, or within one hundred yards from the walls of the said Church; or within or under the walls of any Church already erected or hereafter to be erected in this province.

No corpse to be interred under any Church, nor within 100 yards of Trinity Church.

C A P. II.

An ACT to repeal an Act entitled "An Act to empower the FOREMAN of the GRAND JURIES to administer the usual OATHS to such WITNESSES as are to be examined before them."

WHEREAS an act made and passed in the twenty-sixth year of his present Majesty's reign entitled "An Act to empower the Foreman of the Grand Juries to administer the usual

Preamble.

" usual

“ usual Oaths to such Witnesses as are to be examined before them.” has in its execution been attended with effects subversive of the general principle of law which restrains grand juries to enquire and examine witnesses for, and on the part of the King only.

Act of the 26th
of Geo. III. re-
pealed.

I. *Be it enacted by the Lieutenant Governor, Council, and Assembly,* That the said act, and every clause, matter, and thing, therein contained, be repealed, and no longer of any validity, force, or effect whatsoever; And that the powers and authority therein given to the foreman of any grand jury or grand juries henceforth cease and determine, and be utterly null and void.

Coffin Law

C A P. III.

An ACT in amendment of an Act entitled “ An Act for assessing, collecting
“ and levying COUNTY RATES.”

Part of the
“ act for assess-
“ ing, collecting
“ and levying
“ county rates.”
—repealed.

BE IT ENACTED *by the Lieutenant Governor, Council and Assembly,* That so much of the act entitled “ An Act for assessing, collecting, and levying County Rates.” and every such clause therein as makes it lawful for any inhabitant of any town or parish, in case he shall so chuse, instead of paying, the sum, to be assessed upon him by virtue of the said act, to contribute a proportion of labour, shall be, and the same is hereby repealed.

Where the justices of the peace have purchased any building to be used as a Gaol or Court house, or shall hereafter purchase any building to be used for that purpose such justices have power to distribute and charge the sum so given, or contracted to be given for such building, upon the several towns or parishes in like manner as such justices may distribute and charge the sum to be levied for the purpose of building and finishing a public

II. *And be it further enacted,* That in all such counties in this province where the justices of the peace at their general or special sessions held for that purpose, have purchased, or agreed and contracted to purchase any house or building to be used and occupied as a Gaol or Court-House in such counties respectively, or shall hereafter purchase or agree and contract to purchase any house or building to be used and occupied as a Gaol or Court-House in such counties respectively, such justices shall have full power and authority by warrant under their hands and seals, or under the hands and seals of the greater number of them to be directed to the assessors of the several and respective towns or parishes in their respective counties, by equal proportion to distribute and charge the sum or sums of money so given, or agreed and contracted to be given for such house or building for the use and purpose of a Gaol or Court-House as aforesaid, upon the several towns or parishes in such counties respectively, in like manner and as fully to all intents and purposes, as such justices in and by
the

the said recited act may distribute and charge the sum or sums of money to be levied by virtue of the said act, for the purpose of building and finishing a public Gaol or Court-House in and for such counties respectively. And the assessors for the said towns or parishes respectively shall apportion the quota of the said sum or sums, so to be distributed and charged by virtue of this act, upon the respective towns or parishes, in like manner as the said assessors are authorized to apportion the sum or sums of money to be levied, by virtue of the said recited act, for the purpose of building and finishing a public Gaol or Court-House in and for such counties respectively. And such sum and sums of money so to be distributed, charged, and apportioned by virtue of this act, shall and may be levied, collected and paid in like manner and under the same restrictions, regulations, penalties, and forfeitures, in every respect, as any sum or sums of money, can be levied, collected, and paid by virtue of the said herein before recited act; any thing in the said herein before recited act to the contrary notwithstanding.

Gaol or Court-house by virtue of the said act
The assessors to apportion the quota of the sum to be distributed and charged by virtue of this act, upon the towns or parishes.

III. *And be it further enacted,* That it shall not be lawful for the Justices of the sessions in any County in this province, to levy more than the sum of three hundred pounds for the purpose of building and finishing a Gaol and Court-House by virtue of the said herein before recited act, or for the purpose of paying for or purchasing any buildings for a Gaol and Court-House in their respective counties by virtue of this act; any thing in this act, or in the said recited act, to the contrary notwithstanding.

Not to levy more than 300l. for building Gaol and Court-house, or purchasing any building for that purpose.

IV. *And be it further enacted,* That the said herein before recited act, and every clause, matter, and thing therein contained, not herein before altered and repealed, shall be and remain in full force; any thing herein before contained to the contrary notwithstanding.

The said recited act, except as herein altered and repealed, to remain in force.

C. A P. IV.

An ACT to authorise the erection of FENCES and GATES across certain roads in the several counties in this province where the same shall be found necessary.

Contd To 1st Mar vid: pa. 204.

BE IT ENACTED by the Lieutenant Governor Council and Assembly, That from and after the passing of this act, when any inhabitant of, or proprietor of lands in any town or parish

If any inhabitant or proprietor of lands

shall think temporary gates or water fences should be erected he may prefer a petition to any three justices who are to appoint five freeholders, to examine and report on such petition—A copy of the order of appointment to be annexed to the petition, Commissioners to be sworn, and a certificate thereof indorsed on the copy, of the order.

Commissioners to view the premises & to report and upon the report being returned with the petition and filed in the Clerk's office, if the justices in their general sessions shall approve thereof, then the petitioner may erect such gates and fences accordingly.

Any person blocking up, &c. or destroying any gate to forfeit 10s.

to be levied by warrant of distress.

in this province, shall think it necessary or expedient that any temporary swinging gate or gates should be erected across any road laid out, or hereafter to be laid out in such town or parish, or that water fences should be erected on the shores of the rivers there; it shall and may be lawful for such inhabitant or proprietor to prefer a petition in writing to any three Justices of the Peace in such county, setting forth particularly the object and grounds of such application for either of the purposes aforesaid: which petition being presented the said justices shall and may, and they are hereby authorized and required forthwith to appoint five good substantial disinterested freeholders and inhabitants of and in the said county not resident in the town or parish in which any such gates or fences as aforesaid, are prayed for, to be commissioners to examine and report upon such petition—And a copy of the order for such appointment, shall be annexed to the said petition, and given to such person so petitioning and the said commissioners shall be sworn to the faithful discharge of their trust before one or more of the said Justices, and a certificate of their being so sworn shall be indorsed upon the said copy of the order for such appointment. And the said Commissioners shall, as soon thereafter as may be, proceed to view the premises where any such gates or fences are prayed for, and thereupon to report in writing whether any, either, and which of the gates or fences prayed for, are proper or expedient to be erected, or made; and in such report shall be specified the particular gates or fences so to be made; and upon such report, made and signed by the said five Commissioners or any three of them, being returned, together with the said petition, and filed in the office of the Clerk of the Sessions, if the Justices of the General Sessions, in the county, or the major part of them, assembled in their General Sessions, shall approve of such report or any part thereof, then it shall and may be lawful for the said party so petitioning forthwith, at his own expense, to erect such gates and fences as shall be so approved of by the said Justices in their General Sessions as aforesaid, *Provided always* that the expences attending such appointment view and report of such Commissioners shall be born and paid by the said party praying the same.

II. *And be it further enacted*, That if any person or persons shall block up and fasten, or stake open, or take down, or destroy any gate or gates so to be erected by virtue or in pursuance of this act, such offender or offenders, shall upon conviction before any of his Majesty's Justices of the Peace for the county where such offence shall be committed, upon the oath of one or more credible witness or witnesses, forfeit and pay the sum of *ten shillings* for each and every offence, to be levied by warrant of distress and sale of the offenders goods, under the hand and seal of such Justice

tice, rendering the overplus if any, after deducting the costs and charges of the distress and sale to the offender; which penalty and forfeiture shall be to the use of the poor, and be paid into the hands of the overseers of the poor of the town or parish where such offence shall be committed and such offender or offenders shall be further liable to an action of trespass for any damages sustained thereby: *Provided always*, that if any gate or gates, erected by virtue or in pursuance of this act, shall not be kept in good order and sufficient repair by the proprietor or proprietors thereof at his or their own expence, that he or they shall not have any benefit or advantage from this act.

Penalties to be to the use of the poor—

the offenders liable to an action of trespass.

And be it further enacted, That this act shall continue, and be in force for two years and no longer.

Limitation of this act.

C A P. V.

An ACT to continue and amend an Act entitled "An Act for regulating the " FISHERIES in the different rivers, " coves and creeks, of this province."

BE IT ENACTED by the Lieutenant Governor Council and Assembly, That the act made and passed in the twenty-eighth year of His Majesty's reign entitled "An Act for regulating the " Fisheries in the different rivers, coves, and creeks of this province," except wherein it is altered and amended by this act, shall be and remain in full force until the first day of February, which will be in the year of our Lord one thousand seven hundred and ninety one.

The act "for regulating the " fisheries &c;" except as herein amended, to remain in force until the 1st of February 1791.

II. *And be it further enacted*, That no net shall be set or any seine drawn for the purpose of catching any fish, in any part of the river Saint John, or in any part of the River Kennebeckacis, or in any part of the River Miramichi, or in any of the branches of the said rivers or either of them, or in any part of the harbour of Saint John, more than five days in each week between the first day of April and the first day of August in each and every year, that is to say on Monday, Tuesday, Wednesday, Thursday and Friday in each week, and on no other days; and if any person or persons shall set any net, or draw any seine in the places herein

No net to be set in the river St. John, — Kennebeckacis, or Miramichi, or in any of their branches, or in the harbour of St. John, more than five days in each week between 1st April and 1st August.

Any person setting a net or

drawing a fine contrary to the intent of this act to forfeit ten pounds to be recovered in the same manner as the penalty of 10l. in the first section of the said act.

herein before mentioned, during the term before mentioned on any other days than the days above specified contrary to the true intent and meaning of this act, such offender or offenders shall for every offence forfeit and pay the sum of ten pounds, to be sued for and recovered in the same manner in the county of Northumberland, as well as in all other the counties in this province, as the penalty of ten pounds, mentioned in the first section of the said herein before recited act, can or may be sued for and recovered; and to be paid and applied; in like manner as the penalties in the same section are directed to be paid and applied any thing in the said herein before recited act, to the contrary notwithstanding.

Length and extent of nets in the harbour &c.

III. *And be it further enacted*, That no net shall be set in the River Saint John below the Boar's-Head, or in the Harbour of Saint John, more than twenty fathoms in length, or which shall extend into the water more than twenty-five fathoms from the water's edge, under the penalty of five pounds; to be sued for, recovered, and applied as aforesaid.

The 5th section of the said act repealed.

IV. *And be it further enacted*, That the fifth section of the said herein before recited act, be, and the same is hereby repealed.

The powers of the overseers to be appointed--to extend to the removal and forfeiture of the nets or seines set contrary to this act.

V. *And be it further enacted*, That the powers and authority of the overseers to be appointed by virtue of the said herein before recited act, and whom the Justices in their General Sessions held in each county are hereby required to appoint, shall extend and be applied to the removal and forfeiture of any nets or seines which shall be set contrary to the meaning of this act, in the same manner and in every respect, as they extend and can be applied to any net, hedge, or other incumbrance mentioned in the said herein before recited act: which overseers so appointed shall be entitled to demand and receive One Shilling, and no more, for each net to be set in the districts to which they shall be respectively appointed, from the proprietors of such nets, as a compensation for their trouble.

Overseers to receive 1s. for each net to be set.

The 9th section of the said recited act to extend to the regulations of this act.

VI. *And be it further enacted*, That the ninth section of the said herein before mentioned act of the last session, shall extend to the rules, regulations and amendments in this present act contained.

Limitation of this act.

VII. *And be it further enacted*, That this act shall continue and be in force until the first day of February which will be in the year of our Lord one thousand seven hundred and ninety one and no longer.

C A P. VI.

An ACT for laying an I M P O S T.

BE IT ENACTED by the Lieutenant Governor Council and Assembly, That from and after the thirtieth day of October instant, there be and hereby is granted to his Majesty his heirs and successors for the use of this province, and for the support of the government thereof, the several rates and duties on the articles hereafter mentioned which shall or may be brought or imported into any port or place within this province except the produce or manufacture of Great Britain or Ireland directly imported from thence, to be paid by the importers thereof that is to say—for every gallon of rum or other distilled spirituous liquors two pence—for every gross hundred weight of brown sugar two shillings when landed, allowing twenty per cent. for tare—for every pound of coffee one penny,—and for every barrel of wheat flour, the growth produce or manufacture of any or either of the United States of America two shillings and so in proportion for a greater or lesser quantity.

Duties granted to his Majesty on articles imported, to be paid at the time of importation.

II. *And be it further enacted*, That the rates, duties and imposts to be raised and paid by virtue of this act, shall be paid at the time of the importation of such articles into the city and county of Saint John, unto the Treasurer of the province or his deputy to be appointed in the manner herein after mentioned, and at every other port or place unto his deputy or deputies in such county respectively where the same shall be imported, unless such duties on any one cargo shall amount to upwards of ten pounds, in which case the treasurer or his deputy upon such importer or owner giving bond with good and sufficient surety in double the sum of the duties payable upon the articles as specified in the report, estimating each punchcon of rum at one hundred and twenty gallons, and each hogshhead of sugar at fifteen hundred weight, may take the same payable in three months, and if the same duties shall amount to fifty pounds and upwards, bonds may be so taken therefor payable in six months.

To be paid at the time of importation.

Duties amounting to such the treasurer to take bonds payable in three months.

to get payable in six months.

III. *And be it further enacted*, That every master of any ship or vessel coming into port or harbour of this province shall within twenty four hours after his arrival and before breaking bulk, make report in writing by him subscribed and upon oath to the said treasurer or his deputy, of all articles by him imported in such ship or vessel, and shall also make oath that he hath not landed or permitted to be landed or taken from on board such ship or vessel any such articles within this province or any of the coasts thereof since his sailing from the port or place where such articles were laden on board for exportation; and in case of refusal or neglect by any such master every such ship or vessel shall be and is hereby declared to be forfeited; and if any dutiable goods shall

Master of vessel to make report to the treasurer or his deputy on oath.

In case of neglect such vessel to be forfeited—dutiable goods landed before entry,

or found on board not entered or landed after entry—other than in the report, such goods, with the vessel, &c. forfeited.

shall be landed in any part of this province before entry, and report made as aforesaid, or not being duly entered as aforesaid, shall be found on board any ship or vessel after such entry made, or if any such articles shall have been landed from any such ship or vessel after report made as aforesaid, other than such as were specified in such report or manifest such ship or vessel together with the dutiable articles so landed or found on board contrary to the true intent and meaning of this act shall be and the same are hereby declared to be forfeited, and shall and may be seized by such treasurer or his deputy and information made and proceedings to condemnation had in any Court of Law or Vice-Admiralty proper to try the same; and all forfeitures incurred by virtue of this act after deducting the costs and charges of prosecution, shall be paid and applied as follows, that is to say, one third part to the officer seizing and prosecuting the same to condemnation, and the residue into the hands of the treasurer of the province for the use thereof.

Forfeitures applied.

Duty on other goods imported 5l. per cent.

IV. *And be it further enacted*, That upon all goods not herein before made liable to a duty, which shall from and after the thirtieth day of this instant month of October be imported into this province except from Great-Britain or Ireland or the growth, produce, or manufacture of some British colony or plantation, there shall be paid a duty of five pounds for every one hundred pounds in value prime cost, except live stock, grain of all kinds, salt and all goods liable by Act of Parliament to pay a duty to his Majesty.

Articles excepted.

Merchandize of non residents to pay 5l. per cent. on prime cost.

V. *And be it further enacted*, That for all merchandize of what nature or kind soever, imported by or belonging to any person or persons not resident in this province there shall be paid a duty of five pounds for every one hundred pounds value prime cost, at the place from whence the same was imported, and so in proportion for a greater or lesser quantity—except such goods belong to some person or persons subjects and inhabitants of Great Britain or Ireland, and are imported directly from thence; which prime cost shall be ascertained by a manifest of the cargo to be lodged in the treasurer's office or that of his deputy by the master owner or agent of any vessel importing such goods or merchandize, who shall enter at such office, and there report his whole cargo and make oath to the truth of his manifest within forty eight hours after his arrival at such port, and make true report of every parcel of goods or commodities he may have on board, enumerating the quantity and quality of the same, to whom belonging and to whom consigned; and in case of neglect or refusal of such owner, master, or agent, all goods not so reported shall be liable to forfeiture, and may be seized and proceeded with to condemnation, and divided and applied in the manner herein before directed; *Provided always*, that in case the master cannot make oath to the property the burden of proof shall lie upon the consignee.

Exception.

Prime cost to be ascertained by manifest to be made on oath, to specify the whole cargo, &c.

Goods not reported forfeited.

VI. *And be it further enacted*, That for the recovery of such of the duties as are imposed by this act and shall not be paid within three months or six months as aforesaid respectively after the entry thereof, the said treasurer shall be empowered to cause process to be issued against all and every person and persons who shall stand indebted for duties longer than the said respective times allowed for the payment thereof.

Treasurer to sue for duties.

VII. *And be it further enacted*, That if the said treasurer shall not cause process to be made for any duties to arise by virtue of this act at the end of the said respective times hereby limited for the payment thereof, he shall be answerable for the same within one month thereafter as though the same had been actually received.

Upon neglect to be answerable for the same.

VIII. *And be it further enacted*, That the treasurer of the province for the time being shall nominate fit persons to be approved of by the Lieutenant Governor in the several counties in this province to receive the several duties and impositions laid and imposed by this act; which persons so appointed shall give good and sufficient security to such treasurer for the faithful discharge of their duty and be accountable for all sums so to be received by virtue of this act to the treasurer when thereunto required; which persons so appointed shall have the same powers to make seizures and proceed to condemnation as are given to the treasurer by virtue of this act, and may retain ten pounds for every hundred pounds they shall so receive in full for their trouble and services.

The treasurer to nominate fit persons to receive the duties—who are to give security &c.

To have power to make seizures and retain ten per. cent.

IX. *And be it further enacted*, That all the money to arise by virtue of this act shall remain in the treasury until the same shall be disposed of by an act or acts of the legislature of the province to be passed for that purpose.

Monies to arise by this act to remain in the treasury.

X. *And be it further enacted*, That it shall and may be lawful for the treasurer of the province in case of sickness or necessary absence from the city and county of Saint John to appoint a fit person to act as his deputy in the same city and county for whose acts the said treasurer shall be responsible, which deputy shall have the same power and authority to act in every respect as any deputy of the said treasurer in any other county in this province can or may have by virtue of this act; *Provided always*, that such deputy shall not be entitled to the allowance of ten per cent hereby given to the other deputies, any thing herein before contained to the contrary in any wise notwithstanding.

The treasurer in case of sickness or absence from St. John, to appoint a deputy, to have the same power as other deputies.

XI. *And be it further enacted*, That from and after the passing of this act, after entry of any ship or vessel at the treasurer's office, there shall be a permit made out and delivered by the treasurer to some

After entry treasurer to deliver permits,

to some person who is empowered to detain vessels &c. in case of breach of this act, till report thereof made to the treasurer, who is to seize &c.

some person to be by him appointed for that purpose and for whose acts he shall be responsible before bulk shall be broken on board of any such ship or vessel expressing the quality and quantity of the several dutiable articles contained in the said ship or vessel as entered at the treasurer's office. And if after such entry made at the treasurer's office as aforesaid there shall be found landed from or on board such ship or vessel any dutiable goods not duly entered at the treasurer's office agreeable to the directions of this act, or if any such dutiable goods shall at any time be found to have been landed from any ship or vessel contrary to the provisions of this act, then the said person so to be appointed is hereby authorized and empowered to detain such ship or vessel and all such goods as aforesaid and shall immediately make report thereof to the treasurer who is hereby authorized and empowered to seize and prosecute the same to condemnation. And such ship or vessel and all such goods so seized are hereby declared to be forfeited, and shall be proceeded against as directed in the third section of this act, and such person so detaining such ship, vessel or goods shall have and receive one moiety of the third part of such forfeiture, herein before directed to be paid to the officer seizing and prosecuting the same.

Rum to be gauged by Gunter's callipers.—

XII. *And be it further enacted*, That the quantities of rum so imported shall be ascertained by the instrument commonly called by the name of Gunter's callipers and by no other instrument whatever, and shall be so gauged by a sworn gauger legally appointed or to be appointed in the city of Saint John, and in the several and respective counties, or in case of the sickness or absence of any such gauger or in case no such gauger shall be appointed, then by a sworn gauger to be for that purpose appointed by the treasurer or his deputy.

Persons convicted of taking a false oath guilty of perjury and liable to the penalties for wilful and corrupt perjury.

XIII. *And be it further enacted*, That every person who shall be convicted of making or taking a false oath to any of the facts herein before directed or required to be sworn, shall be deemed guilty of perjury and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

Limitation of this act.

XIV. *And be it further enacted*, That this act shall continue and be in force until the first day of March which will be in in the year of our Lord one thousand seven hundred and ninety one, and no longer.

C. C. A. P. VII.

An ACT relating to the punishment of persons convicted of FELONY within the BENEFIT of CLERGY.

WHEREAS the punishment of burning in the hand, when any person is convicted of felony within the benefit of clergy, is often disregarded and ineffectual. Preamble

I. Be it enacted by the Lieutenant Governor Council, and Assembly, that from and after the passing of this act, when any person shall be lawfully convicted of any felony within the benefit of clergy, for which he, or she, is liable to be burned or marked in the brawn of the left thumb; it shall and may be lawful for the Court, before which any person shall be so convicted, or any Court holden for the same place with the like authority, if such Court shall think fit, instead of such burning or marking, to impose upon such offender, such pecuniary fine, as to the Court in its discretion shall seem meet; or otherwise it shall be lawful, instead of such burning and marking, in any of the cases aforesaid, except in the case of manslaughter, to order and adjudge that such offender shall be once or oftener, but not more than three times, either publicly or privately whipped; such private whipping to be inflicted in the presence of not less than two persons, besides the offender and the officer who inflicts the same, and in case of female offenders, in the presence of females only; And such fine or whipping so imposed or inflicted instead of such burning or marking, shall have the like effects and consequences to the party, on whom the same, or either of them, shall be so imposed or inflicted, with respect to any discharge from the same or other felonies, or any restitution to his, or her estates, capacities and credits, as if he, or she, had been burned or marked as aforesaid.

Courts impow-ered to punish persons convicted of Felony within the benefit of Clergy, by fine,

or except in case of manslaughter, by whipping public or private.

Mode of inflicting private whipping.

This punishment to have the same legal consequences as burning in the hand.

II. And be it further enacted, That the Court, before which any person shall be so convicted as aforesaid of any of the felonies aforesaid, or any Court holden for the same place with the like authority, may also in its discretion, after such burning or marking, or after such whipping or fine, as may by virtue of this act be inflicted or imposed instead thereof, award and give judgment that such offender as aforesaid, shall be committed to some house of correction, or public work house, or prison, within the county, city, or place, where such conviction shall be, there to be, remain and be kept, without bail or mainprize, for such time as such Court shall then judge and award, not less than six months, and not exceeding two years, to be accounted from the time of such conviction: And an entry thereof shall be made of record pursuant to such judgment and award—And such offender so judged and

The court may also sentence the offender to a house of correction, work-house or prison,

there to remain not less than six months, nor longer than two years—

D.

awarded

To be kept at
hard labour—

and in case of
refusing to work
to be corrected
by the master or
keeper.

awarded to remain and be kept in such house of correction, public work house, or prison, shall be there set at work, and kept at hard labour, for and during such time as shall be so adjudged and awarded. And in case such person shall refuse or neglect to work and labour as they ought to do, the master or keeper of such house of correction, work house, or prison respectively, is hereby required to give such person such due correction, as shall be fit and necessary in that behalf.

C A P. VIII.

An ACT for reviving and continuing and amending sundry LAWS that have expired and are near expiring.

BE IT ENACTED by the Lieutenant Governor Council, and Assembly, That an act made and passed in the twenty-sixth year of his present Majesty's reign, entitled "An Act for relief against absconding debtors," and passed in the twenty eighth year of his present Majesty's reign, entitled "An act in addition to an act entitled an act for relief against absconding debtors," be continued in full force, until the first day of March which will be in the year of our Lord one thousand seven hundred and ninety five.

II. *And be it further enacted,* That an act made and passed in the twenty seventh year of the reign of his present Majesty entitled "An act to authorise the respective proprietors of certain Islands in the river Saint John, and other rivers in this province, to make rules and regulations for their better improvement and cultivation," except wherein it is altered and repealed by this act, shall be continued and in full force, until the first day of March which will be in the year of our Lord one thousand seven hundred and ninety five.

III. *And be it further enacted,* That the fourth section of the same last herein before recited act, whereby it is enacted "that the water surrounding the said Islands, and each of them, shall be deemed and taken in law a lawful fence," be, and the same is hereby repealed and declared to be of no force or validity whatsoever.

IV. *And be it further enacted,* That an Act made and passed in the twenty seventh year of his present Majesty's reign, entitled "An act in addition to an act entitled an act for laying out, repairing

pairing and amending highways, roads, and streets; and for appointing Commissioners and Surveyors of highways within the several towns or parishes in this province," except wherein it is hereby altered and amended; be revived and continued, and the same is hereby revived and shall be continued with such alterations and amendments in full force until the first day of March which will be in the year of our Lord one thousand seven hundred and ninety five.

"with amend-
"ment."

V. *And be it further enacted*, That in future, the way, mentioned in the third section of the said last herein before recited act, shall be marked by one row only of topp'd bushes erected at the distance lengthways from each other, as directed in and by the same section: And that all persons travelling by the same way, shall keep the said row upon the left hand.

The winter road
to be marked
with one row of
bushes.

Travellers to
keep the said row
on the left hand.

VI. *And be it further enacted*, That an act made and passed in the twenty seventh year of the reign of his present Majesty entitled "an Act to enable the Justices of the Peace in the several counties in this province, wherein no sufficient gaols are erected to send persons charged with Grand Larceny, and other offences of a higher nature, to the gaol of the city and county of St. John." be continued in full force until the first day of March which will be in the year of our Lord one thousand seven hundred and ninety five.

The "Act to
"enable justices
"of the peace in
"any county
"not having a
"gaol to send
"persons char-
"ged with
"Grand Larce-
"ny &c. to the
"gaol of Saint
"John," conti-
"nued.

VII. *And be it further enacted*, That an act made and passed in the twenty sixth year of his present Majesty's reign, entitled "an Act to regulate the sale of goods sold at public auction or outcry shall be and continue in full force until the first day of March which will be in the year of our Lord one thousand seven hundred and ninety five.

The "Act to
"regulate the
"sale of goods
"at public auc-
"tion," conti-
"nued.

C A P. IX.

An ACT for appropriating and disposing
of the public MONIES.

BE IT ENACTED by the Lieutenant Governor Council, and Assembly, That there be allowed and paid out of the treasury of this province unto the several persons hereafter mentioned, the following sums:—To Richard Seaman Esquire for his services as treasurer from the thirtieth day of June one thousand seven hundred and eighty-eight to the thirtieth day of September one thousand seven hundred and eighty nine, one hundred and twenty five

Monies to be
paid out of the
treasury.

To the treasury
1250

To the Speaker of the House of Assembly. 20s. per diem.

To the Clerk of the House of Assembly. 10s. per diem & 25l. for extra services.

To the Clerk of Council. 20l.

To the members of the House of Assembly. 10s. per diem.

To Godfrey Leydick as sergeant at arms, 10s. per diem, as the treasurers tide surveyor, 20l. for services and 7l. 6s. 9d. for expences.

To the Clerk of the House of Assembly for house rent, stationary, &c. 10l. 16s. 4d. &c.

To John Ryan, Printer 5l. 10s.

For the purpose of completing the road from Fredericton to St. John, 175l.

For the purpose of completing the road from Saint John to Westmorland, 200l.

For opening and completing the road from Fredericton to St. Andrews, 200l.

For widening & levelling the road over the portages, 50l.

For opening a road from Fredericton to the Miramichi by the Nashwaack, 100l.

For completing a road from Fredericton to St. John on the western side of the river 150l.

To the Magi-

five pounds.—To the Speaker of the House of Assembly twenty shillings per diem for his attendance as Speaker and going and returning from the General Assembly.—To the Clerk of the House of Assembly ten shillings per diem during the Session; and for other services of the present Session twenty five pounds.—To the Clerk of the Council in General Assembly twenty pounds.—To the Members of the House of Assembly ten shillings per diem for defraying their expences of travelling and actual attendance in the present Session, allowing twenty miles travel for one day, the time of such attendance to be certified by the Speaker.—To Godfrey Leydick, Sergeant at Arms for travelling and attending the House of Assembly ten shillings per diem; and for his services as Tide Surveyor under the treasurer of the province twenty pounds; and for expences actually incurred by him seven pounds six shillings and nine pence.—To the Clerk of the House of Assembly for monies disbursed by him for house rent, fuel, stationary and so forth, nineteen pounds sixteen shillings and four pence.—To John Ryan for the ballance of an account due him for printing the Acts of the General Assembly and the Journals of the Votes and Proceedings of the House of Assembly in the Session of one thousand seven hundred and eighty seven, and blank Bonds and Manifests for the Treasurer's office eight pounds ten shillings.—The sum of one hundred and seventy five pounds to such person as the Governor or Commander in Chief for the time being, with the advice of his Majesty's Council shall appoint for the purpose of completing the road as now laid out from Fredericton to the city of St. John.—The sum of two hundred pounds to the Members for the city and county of Saint John and the county of Westmorland in General Assembly and George Leonard Esquire, for the purpose of completing the road as now laid out from the city of Saint John to Westmoreland.—The sum of two hundred pounds to such person as the Governor or Commander in Chief for the time being, with the advice of his Majesty's Council shall appoint for the purpose of opening and completing the road from Fredericton to Saint Andrews.—The sum of fifty pounds to the Members for King's County in General Assembly for the purpose of widening and levelling the road over the portages from Belisle Bay to the river Kennebeckacis, and from the same river to the Marsh near the city of Saint John.—The sum of one hundred pounds to the Members for the counties of York and Northumberland in General Assembly for the purpose of opening a road of communication from Fredericton to the river Miramichi by the settlements on the river Nashwaack.—The sum of one hundred and fifty pounds to the Member's for Sunbury, Queen's and King's counties in General Assembly, and the Honourable Daniel Bliss, Esquire, for the purpose of completing the communication by a road from Fredericton to the city of Saint John, through or near the settlements over the highlands on the western side of the river Saint John.—The sum of one hundred pounds to the magistrates

strates of King's county towards enabling them to pay for a house which they have purchased for the purpose of a Gaol and Court-house.—To the Members for the counties of King's and Westmoreland; the sum of twenty five pounds to be laid out in the purchase of a yoke of oxen and two cows to be delivered to such person as shall settle on the Westmoreland road, midway between the upper settlement on the Kennebeckcaxis and the upper settlement on the Petcutiac rivers: such settler first giving good and sufficient security that he will not sell or slaughter the said oxen and cows or either of them, and in case of his removal from the place where he shall so settle, that he will return to the members of the said counties of King's and Westmoreland for the time being, a yoke of oxen and two cows of equal value to those he shall receive as aforesaid.—And a like sum to the Honourable Gabriel G. Ludlow, Esquire, and the Members for King's county in General Assembly to be applied in the same manner for the encouragement of a settler on the road from Fredericton to Saint John, midway between the rivers Oromocto and Nerepifs.—To the Doorkeeper of the House of Assembly five shillings per diem during the present session.

strates of King's county, towards paying for a gaol or court house, 100l.

For purchasing oxen and cows to be given to a settler on the Westmoreland road, 25l.

The like to be given to a settler on the road from Fredericton to St. John, 25l.

To the doorkeeper, 5s. per diem.

II. *And be it further enacted,* That the sum by which the amount of the sums herein before ordered to be allowed and paid to the several and respective persons herein before mentioned, shall exceed the sum now remaining in the hands of the treasurer unappropriated, be allowed and paid in the manner hereih after mentioned out of such monies as shall hereafter be in his hands arising from the collection of the impost duties.

The sum by which the amount herein ordered to be paid shall exceed the sum remaining in the treasury, to be paid out of the monies arising from the impost duties.

III. *And be it further enacted,* That all the aforesaid several sums of money shall be paid by the treasurer, by warrant issued by the Governor or Commander in Chief for the time being, by and with the advice of his Majesty's Council of this province, and the receipts of the several persons intituled to the said sums, indorsed on the said warrant shall be to the treasurer, good vouchers and discharges for so much as shall thereby be acknowledged to be received.

Monies to be paid by the treasurer by warrant from the Governor with the advice of Council: Receipts indorsed on the said warrant, to be vouchers to the treasurer.

IV. *And be it further enacted,* That for answering the contingencies and expences that shall or may happen for the service of this province to the first day of March, which will be in the year of our Lord one thousand seven hundred and ninety one, warrants may issue on the treasurer from time to time, drawn by the Governor or Commander in Chief for the time being with the advice and consent of his Majesty's Council, which the treasurer is hereby ordered and directed to pay, provided the amount of the said warrants do not exceed the sum of one hundred pounds during that time.

For the contingencies of the province to the 1st of March 1791, warrants may issue on the treasurer, drawn by the Governor with the advice and consent of Council.

Not to exceed 100l.