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14/4/83

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THE
CONSOLIDATED STATUTES OF CANADA,

BEING

THE PUBLIC GENERAL STATUTES

WHICH APPLY TO

THE WHOLE PROVINCE,

AS REVISED AND CONSOLIDATED BY THE COMMISSIONERS
APPOINTED FOR THAT PURPOSE.

TORONTO:
PRINTED BY STEWART DERBISHIRE AND GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1859.

L. 13453

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JOINT REPORT

Of the Commissioners appointed to revise and consolidate the Statutes which apply to the whole Province of Canada.

TO HIS EXCELLENCY THE RIGHT HONORABLE SIR EDMUND W. HEAD, Baronet, Governor General of British North America, &c., &c., &c.

The Undersigned, the Chairman of the Commission for Upper Canada, and the Acting Commissioner of the Commission for Lower Canada, appointed to examine, revise, consolidate and classify the Public General Statutes of Upper and Lower Canada respectively, and jointly "to examine, revise, consolidate and classify the Public General Statutes of the Province of Canada," most respectfully report to Your Excellency, as follows :

The names of the several Commissioners for Upper Canada, and the dates of their respective appointments, appear by their Reports annexed to the Consolidated Statutes for Upper Canada.

Messrs. A. Polette, Q. C., G. W. Wicksteed, Q. C., A. Stuart, Q. C., T. J. J. Loranger, Q. C., Robert Mackay and George de Boucherville, the Commissioners for Lower Canada, were appointed by Commission dated the 28th day of March, 1856.

The Commissioners for Upper and Lower Canada met on the 12th of April, 1856, and, with respect to the work entrusted to them jointly, passed certain resolutions which appear in the first Report of the Commissioners for Upper Canada, and the views expressed in which were approved by the Attorneys General for the two divisions of the Province respectively.

But Messrs. Polette and Loranger were Members of the Legislative Assembly, and Mr. Wicksteed an officer of that House, and the Lower Canada Commission having issued during the session which began on the 15th of February, and ended on the first of July, it was not found practicable to proceed much further until after the prorogation of Parliament,

partly by reason of the pressing engagements of the three Gentlemen above mentioned, and partly because it was undesirable to begin the work while important legislation was in actual progress. The Schedule mentioned in the Report of the Upper Canada Commissioners, and printed with it, was prepared as early as possible after the end of the Session, and after due consideration and revision, was finally settled and agreed to by the members of both Commissions, and the work was divided between them, the Lower Canada Commissioners undertaking the first portion down to the end of the Inspection Laws, (chapters 1 to 53,) and the Upper Canada Commissioners the remainder. (Chapters 54 to 111).

The great importance of the Revision of the Public General Statutes applying to all Canada, which had been assigned to the two Commissions jointly, was so evident, that the Lower Canada Commissioners did not hesitate to give it the preference over that portion of their work which applied exclusively to Lower Canada, when they found that the late period at which they were appointed and enabled to commence their work, and the additional labour thrown on them by its having to be done in two languages, would make it impossible for them to have their share of the joint work and also the exclusively Lower Canada work ready by the time when the Upper Canada Commissioners expected to complete both the Upper Canada Statutes, and that portion of the Statutes applying to all Canada which they had undertaken.

The Consolidated Statutes common to the whole Province are not only absolutely necessary to make the work of Revision complete either for Upper or Lower Canada, but they are also in themselves of paramount importance ; and the Commissioners deemed it better to complete part of their work and submit it to Your Excellency in time to be considered by the Legislature during the present Session, than to deprive Upper Canada of the benefit of the Revision until the Lower Canada Statutes should be also ready. The advantages which Lower Canada will derive from the Consolidation of the Statutes affecting Lower equally with Upper Canada will be very considerable, and there seems to be no good reason why they should be postponed until the whole work is completed.

We have, accordingly, now the honor to submit to Your Excellency the Consolidated Statutes for the whole Province of Canada, comprising one hundred and eleven chapters, and forming a Volume of 1221 printed pages, of which six hundred copies have been struck off for the use of the Government and the Legislature.

The volume now reported in English is all translated into French, and about two thirds of it printed in that language ; the remainder is in the Printer's hands ; the French version requires final revision and the addition of the notes, &c.,—but it will very soon be ready for delivery.

The English version of the work is complete and ready to be submitted to the Legislature. There are some points, generally indicated by foot notes, in which Legislation, though of a very simple kind, will be required to remove doubts or manifest contradictions, but they are few in number. Among them are the questions arising out of temporary Acts on some of the most important subjects,—such as the Militia Act, the Act concerning Riots near Public Works, the Penitentiary Act, &c.—One provision in the latter, hereinafter mentioned, affects a very great number of clauses in the Statutes relating to Criminal Law which are permanent. The Commissioners are humbly of opinion that no temporary Act ought to form part of the Consolidated Statutes.

The views of the Commissioners with respect to the nature of the task assigned them and the plan they adopted in executing it, have already been fully stated in the Reports of the Upper Canada Commissioners : the classification and arrangement of the Acts applying to all Canada, shewn in the Schedule annexed to their first Report, has been followed out with very slight alterations ; and the important and difficult work has been performed with all the attention and care which the time at the disposal of the Commissioners permitted.

The Statutes applying to the whole Province have, generally speaking, been consolidated with as close an adherence as possible to the words of the original, omitting mere redundancies of language,—incorporating all amendments with the enactments they amend,—arranging the whole in the best order that could be devised, without observing that of the original if it appeared susceptible of improvement,—and dividing and transposing clauses whenever it appeared necessary to clearness of expression. The whole of an Act, and all the Acts on the same subject, are for the most part incorporated in the same chapter ;—but this is not always the case,—and the Criminal Statutes have been arranged in an order different from that in which they stand in the Statute Book, and their provisions have been shortened in some particulars, without, it is hoped, altering their legal effect. For example, it has been thought unnecessary continually to repeat the words “ and being thereof convicted ”—with reference to each

offence, a provision which is always supplied by intendment of law, no man being deemed guilty of an offence or liable to punishment until he has been legally convicted.—The effect of the second section of the Penitentiary Act (14, 15 V. c. 2.) declaring that every imprisonment for two years or upwards, shall be in the Penitentiary, has always been attended to in the very numerous provisions authorizing punishment by imprisonment for two years or more,—and though this enactment leaves a certain amount of doubt in a few cases which are noted, yet the practical difficulty is but little and may be removed in all cases by a very slight exercise of legislative power :—but the enactment itself is *temporary* and its expiration would lead to endless confusion ; the undersigned strongly recommend that it be made permanent.

It is a matter of great satisfaction to the Commissioners, as they believe it will be to your Excellency and to the Legislature, to find so large a body of Statute Law common to both divisions of the Province ; and the Commissioners believe that one of the great benefits to be derived from the Revision, will be the facility thereby afforded for the comparison and further assimilation of the Law on many subjects upon which it now differs in Upper and Lower Canada.

The Criminal Law, and as far as practicable, the Commercial Law, ought to be uniform throughout Canada, and we are under the impression that no very great amount of Legislation would be necessary to the attainment of this object. In the first session of the first Parliament of United Canada, the Honorable Mr. Black, the Judge of Her Majesty's Court of Vice Admiralty at Quebec, and then one of the Members of the Legislative Assembly for that City, feeling the necessity of uniformity as regards the Criminal Law, brought in and the Legislature passed the Acts 4, 5 V. cc. 24, 25, 26 and 27, which form the great bulk of our Criminal Statute Law to this day, and which had the advantage not only of making the Criminal Law more nearly uniform throughout Canada, but of assimilating it to the then state of the Law in England, these Statutes having been modelled upon the latest Imperial Statutes upon the same subjects. The English Statutes, commonly known as Sir Robert Peel's Acts, had been to a great extent previously adapted and applied to Upper Canada, by Sir John Beverly Robinson, Chief Justice, and at that time Speaker of the Legislative Council of Upper Canada ; but the honor of introducing a Criminal Code common to all Canada belongs to Mr. Black.

In the assimilation of the laws affecting Trade and Commerce in the two divisions of the Province, the Consolidated Statutes will show that much has been done. The Constitutional and Departmental laws are the same for the whole Province. The laws respecting Municipal Institutions and Education are gradually becoming more and more alike. And it is not unreasonable to expect that in a short time nearly the same laws will prevail throughout Canada, except perhaps as regards certain matters relating to the administration of Justice in civil cases, or to real property. Even in these there are many symptoms of approach. The privileges attached to Primogeniture have been abolished in Upper Canada, and the system of registration of Titles is firmly established in Lower Canada. The laws respecting the form, proof and effect of deeds and of certain written documents, including Wills, ought to be and could easily be made alike in both. This very desirable work of assimilation the Commissioners flatter themselves their labours will greatly facilitate. The comparison of the Statutes in force on any subject in either portion of the Province will now be easy, and the best provisions of each can readily be selected and combined. It was beyond the power of the Commissioners to attempt such selection and combination, but they trust that what they have done will enable the Legislature to make them with less difficulty.

The Consolidation now effected does not include Statutes of local application, nor does our Commission extend to them, or to Acts of a private nature. Yet most of the local Acts and very many of those commonly called Private, are of great importance to the public generally, and almost all of them are so to the Inhabitants of extensive sections of the Country.

To carry out a thorough Revision of the Statutes, all local and private Acts of general interest which are now in force, should be revised and published in a separate volume (with or without consolidation and re-enactment,) with a view to the maintenance and enforcement of the important interests and rights involved in them, and with proper references to the times at which they respectively became law. The volume should include all Acts affecting particular Municipalities, Local Territorial Divisions, Railway and Canal Acts, Bank Acts, Acts affecting particular Religious Societies and Bodies, Benevolent Institutions, and others of a like nature.

And to complete the Revision to its fullest extent, a fourth Volume, including the less important Local and Private Acts, would be required, so as to exhibit in the four Volumes the whole Statute Law in force in Canada.

We apprehend, however, that the bulk of such additional volumes would be very considerable, though, without the previous process of revision we cannot form any very satisfactory estimate of their extent.

It may not perhaps be out of place to mention here that the Lower Canada Consolidated Statutes are in a very advanced state, the more important Titles being ready and many of them printed in English and French. All have been reported by the several Commissioners to whom they were intrusted, to the acting Commissioner at Toronto, and require only to be revised and made uniform in arrangement and style, in order to their being printed and to their being translated in those cases where they are not already in both languages. A few months' work after the close of the session will complete them, and the legislation of the present Session will be incorporated with them so as to make them correct to the time of publication.

Your Excellency having been pleased, after the several Commissioners had executed the portions of the work assigned to them, to express your pleasure that the final revision, printing, noting, indexing and editing of the Consolidated Statutes in their present shape should be performed by the undersigned, the same have been so performed accordingly, and the duty of making this Report has devolved on them, but they gratefully acknowledge the assistance which the other Commissioners have rendered throughout in advancing this very difficult and laborious work to its present state: like acknowledgements are due to his Honor Judge Gowan, to whom the undersigned are indebted for most valuable advice and assistance; and they wish also to express their sense of the great care and diligence shewn by the Queen's Printer in that important part of the work belonging to his department.

All which is most respectfully submitted.

J. B. MACAULAY,
G. W. WICKSTEED.

TORONTO, 3rd March, 1859.

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CONSOLIDATED STATUTES

APPLYING TO THE WHOLE PROVINCE OF CANADA.

TITLE 1.

CONSTITUTION AND POLITICAL RIGHTS, LEGISLATION, &c.

C A P. I.

An Act respecting the Legislative Council.

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

- 1.** The Legislative Council shall be composed of the Members thereof appointed by the Crown before the fourteenth day of July, 1856, and of forty-eight Members elected in the proportion and at the times and in the manner hereinafter provided; and to this end, the Province shall be divided into forty-eight Electoral Divisions, twenty-four in Upper Canada and twenty-four in Lower Canada, in the manner set forth in Schedule A. 19, 20 V. c. 140, s. 1. How the Legislative Council shall be constituted.
- 2.** The Councillors appointed by the Crown as aforesaid, shall continue to hold their seats as heretofore, subject to the conditions contained in the Imperial Act of the third and fourth Victoria, chapter thirty-five, "to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada." 19, 20 V. c. 140, s. 2. Certain Councillors appointed by the Crown continued.
- 3.** The Elective Members shall be elected for eight years. 19, 20 V. c. 140, s. 3. Term of service of Elective Councillors.
- 4.** No person shall be eligible or shall sit or vote as a Legislative Councillor unless he is a British Subject by birth or naturalization, resident in Canada, of the full age of thirty years, and is legally or equitably seized as of freehold, for his own use and benefit, of lands or tenements held in free and common socage,—or seized or possessed, for his own use and benefit, of lands or tenements held in fief, *franc-aleu* or *roture* in

in this Province,—of the value of two thousand pounds currency, over and above all debts, charges and dues,—nor unless his residence or his lands or tenements as aforesaid, to the value aforesaid, are within the limits of the Electoral Division for which he seeks to be or has been elected. 19, 20 V. c. 140, s. 4. 5

Disqualification in certain cases.

5. No person shall be elected a Legislative Councillor who is a public defaulter, or has been convicted of felony, or of any infamous crime. 19, 20 V. c. 140, s. 5.

Members of the other House.

6. No Member of one House shall be elected a member of the other. 19, 20 V. c. 140, s. 6. 10

Seats of Elective Councillors forfeited in certain cases.

7. The seat of an Elective Legislative Councillor shall be forfeited in any of the following cases: if he is a public defaulter, or becomes a bankrupt, or insolvent, or takes the benefit of any law whatsoever in relation to insolvent debtors, or is convicted of felony or of any infamous crime, or ceases to have the property qualification required by the fourth section. 19, 20 V. c. 140, s. 7. 15

Writs for the first election in each Division.

8. Twenty-four Legislative Councillors having been elected in the years 1856 and 1858, under the Act 19, 20 V. c. 140, to represent the twenty-four Electoral Divisions first entitled to return Members to the Legislative Council,—Therefore, upon or before the first day of September 1860, the Governor shall issue writs for the election of twelve Legislative Councillors to represent the twelve Electoral Divisions thirdly entitled to return Members to the Legislative Council as hereinafter provided; and the said Writs shall be transmitted to the Returning Officers by the Clerk of the Crown in Chancery, and be returnable on the first Tuesday of November following: and in every second year thereafter writs for the periodical elections shall be issued on or before the first day of September, and returnable the first Tuesday in November. 19, 20 V. c. 140, s. 8. 20 25 30

And for subsequent periodical elections.

Return.

Form of Writs.

9. The Writs of Election shall be in the form of Schedule B. 19, 20 V. c. 140, s. 9.

Governor to appoint Returning Officers.

10. The Governor shall appoint the Returning Officers for the Electoral Divisions, from among those persons who might by law be Returning Officers at Elections of Members of the Legislative Assembly for places within the limits of such Divisions. 19, 20 V. c. 140, s. 10. 35

Place of Election.

11. The Returning Officer for any Electoral Division shall fix a place as nearly as may be in the centre of such Division, for the nomination of Candidates and the proclamation of the Candidate elected. 19, 20 V. c. 140, s. 11. 40

12. The electors of Legislative Councillors shall, as regards their qualification, be the same as those of Members of the Legislative Assembly, and shall vote at the places at which they ordinarily vote at the election of the latter; The boundaries and extent of the Electoral Divisions are defined by Schedule A. 19, 20 V. c. 140, s. 12.

Electors' qualification and place of voting.
Boundaries of Divisions.

13. The laws relating to the election of Members of the Legislative Assembly, as regards the qualification of Electors,—the issue and return of writs of election,—Returning Officers,—the powers and duties of Returning Officers and of Deputy Returning Officers, and of Election and Poll Clerks,—the prevention or punishment of offences committed at elections or with respect to elections,—to controverted elections,—and to all matters connected with or incidental to elections,—shall, except where such laws are inconsistent with this chapter, apply in analogous cases to elections of Legislative Councillors. 19, 20 V. c. 140, s. 13.

Laws relating to election, &c., to be the same as for Legislative Assembly.

14. Every candidate for election to the Legislative Council shall, if thereunto required by another candidate, or by an elector, or by the Returning Officer, make in person a written declaration in the form of Schedule C; and the provisions of the election laws which relate to the declaration of qualification of candidates for election to the Legislative Assembly, shall, with the exception of the amount of property qualification, apply in a precisely similar manner to the declaration of qualification of the candidate for election to the Legislative Council. 19, 20 V. c. 140, s. 14.

Candidates, if required, to make a declaration of property qualification.

15. The period for which the Legislative Councillors are to serve shall commence on the day of the return of the writs, and shall end upon the day next preceding the return day of the writs for the election of their successors. 19, 20 V. c. 140, s. 15.

Period of service of Councillors, how reckoned.

16. Every Legislative Councillor shall, before taking his seat, take the oath in the Schedule D, before the Clerk of the said Council. 19, 20 V. c. 140, s. 16.

Oath of Office.

17. The order in which the Electoral Divisions shall be entitled to return Members to the Legislative Council shall be that determined by lot, in the manner prescribed by the said Act 19, 20 V. c. 140, and made known by Proclamation of His Excellency the Governor General bearing date the sixteenth day of July, 1856, that is to say:—Elections of Members for the Electoral Divisions of Lauzon,—The Laurentides,—Wellington,—Mille Isles,—Rougemont,—De Salaberry,—Western, Saugeen,—Burlington,—Queen's,—Trent—and Rideau, having been held in the year 1856, in accordance with the said Proclamation, the next periodical election for the said Electoral Divisions shall be held in the year 1864; and in every eighth year thereafter;

Order in which elections shall be held for the several Electoral Divisions.

Elections of Members for the Electoral Divisions of Gulf,—La Salle,—Saurel,—Repentigny,—Montarville,—Alma,—Tecumseth,—Gore,—Erie,—York,—Cataraque—and St. Lawrence,—having been held in the year 1858, in accordance with the said Proclamation, the next periodical election for the said Electoral Divisions, shall be held in the year 1866, and in every eighth year thereafter; 5

The periodical election of Members for the Electoral Divisions of Grandville,—Stadacona,—De la Vallière,—Inkerman, Bedford,—Rigaud,—St. Clair,—Brock,—Niagara,—Kings,— Newcastle, and Bathurst, shall be held in the year 1860, and in every eighth year thereafter; 10

And the periodical Election of Members for the Electoral Divisions of De la Durantaye,—Shawinigan,—Kennebec,—De Lanaudière,—De Lorimière,—Victoria,—Malahide,— Thames,—Home,—Midland,—Quinté and Eastern, shall be held in the year 1862, and in every eighth year thereafter. 19, 20 V. c. 140, ss. 17, 18, 19, and Proclamation of 16th July, 1856. 15

Elective Councillors may resign, &c.

May be re-elected.

18. An Elective Councillor may resign his seat in the same manner and under the same circumstances as a member of the Legislative Assembly; and he may hold his seat until the day next preceding that of the return of the Writ of Election of his successor: In case of his resigning or going out at the expiration of the period for which he is elected, he may be re-elected, subject to the conditions contained in this chapter. 19, 20 V. c. 140, s. 20. 20

To be subject to laws for securing Independence of Parliament.

19. Elective Legislative Councillors shall, under the same circumstances as Members of the Legislative Assembly, be subject to the laws for securing the independence of the Parliament of this Province. 19, 20 V. c. 140, s. 21. 30

Appointment as Speaker not to vacate.

20. The acceptance by a Councillor of the Office of the Speaker of the Legislative Council shall not, however, vacate his seat. 19, 20 V. c. 140, s. 22.

Power of Speaker, &c., in case of vacancy.

21. In cases of accidental vacancy provided for by sections eighteen and nineteen, the Speaker of the Legislative Council, the Legislative Council and the several Members thereof, shall have the like powers and duties as the Speaker of the Legislative Assembly, the Legislative Assembly and the several Members thereof; and the writs shall be made returnable within fifty days at furthest from the issue thereof. 19, 20 V. c. 140, s. 23. 35 40

As to vacancies a short time before

22. An accidental vacancy of the seat for any Electoral Division happening within the three months next before the regular periodical vacancy of such seat, shall not be filled until 45

until the time appointed for filling such periodical vacancy. periodical vacancy.
 19, 20 V. c. 140, s. 24.

23. In case of any accidental vacancy of the seat for any electoral division, not provided for by the next preceding section, the period of service of the Councillor elected to fill such vacancy shall be that at which his predecessor would regularly have gone out. Period of service of Councillors elected to fill accidental vacancies. 19, 20 V. c. 140, s. 25.

24. The Speaker of the Legislative Council shall, as heretofore, be appointed by the Governor, and shall be selected from amongst the Members of the said Council. Appointment of Speaker. 19, 20 V. c. 140, s. 26.

25. Each General Election of Members of the Legislative Assembly shall make a new Parliament, as heretofore. New Assembly to make new Parliament. 19, 20 V. c. 140, s. 28.

SCHEDULE A.

LOWER CANADA.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Gulf.....	The Counties of Gaspé, Bonaventure and Rimouski.
Grandville.....	The Counties of Temiscouata and Kamouraska, the Parishes of St. Roch des Aulnets and St. Jean Port Joli, and the prolongation thereof in a straight line to the Province Line in the County of L'Islet.
De la Durantaye..	The remainder of the County of L'Islet, the Counties of Montmagny and Bellechasse and the Parishes of St. Joseph, St. Henri and Notre Dame de la Victoire, in the County of Lévi.
Lauzon.....	The remainder of the County of Lévi, the Counties of Dorchester and Beauce.
Kennebec.....	The Counties of Lotbinière, Mégantic and Arthabaska.
De la Vallière....	The Counties of Nicolet and Yamaska, the Townships of Wendover, Grantham, and that part of Upton which lies in the County of Drummond.

SCHEDULE

SCHEDULE A—Continued.

LOWER CANADA.

Names of Electoral Divisions.	Limits of Electoral Division.
Wellington	The remainder of the County of Drummond, the County of Richmond, the Town of Sherbrooke, the Counties of Wolfe, Compton and Stanstead.
Saurel	The Counties of Richelieu and Bagot, the Parishes of St. Denis, La Présentation, St. Barnabé, and St. Jude, in the County of St. Hyacinth.
Bedford	The Counties of Missisquoi, Brome and Shefford.
Rougemont	The remainder of the County of St. Hyacinth, the Counties of Rouville and Iberville.
Montarville.....	The Counties of Verchères, Chambly and Laprairie.
De Lorimier	The Counties of St. John and Napierville; St. Jean Chrysostôme and Russeltown in the County of Chateauguay; Hemmingford in the County of Huntingdon.
The Laurentides..	The Counties of Chicoutimi, Charlevoix, Saguenay and Montmorency, the Seigniorie of Beauport, the Parish of Charlesbourg, the Townships of Stoneham and Tewkesbury, in the County of Quebec.
La Salle.....	The remainder of the County of Quebec, the County of Portneuf, and all that part of the <i>Banlieue</i> of Quebec which lies within the Parish of <i>Notre Dame de Quebec</i> .
Stadacona.....	The remainder of the City and <i>Banlieue</i> of Quebec.
Shawinegan	The Counties of Champlain and St. Maurice, the Town of Three Rivers, the Parishes of <i>River du Loup</i> , St. Léon, St. Paulin, and the Township of Hunterstown and its augmentation, in the County of Maskinongé.
De Lanaudière...	The remainder of the County of Maskinongé, the Counties of Berthier and Joliette, with the exception of the Parish of St. Paul, the Township of Kildare and its augmentation, and the Township of Cathcart.

SCHEDULE

SCHEDULE A—*Continued.*

LOWER CANADA.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Repentigny.....	The Parish of St. Paul, the Township of Kildare and its augmentation, and the Township of Cathcart, in the County of Joliette, the Counties of L'Assomption and Montcalm.
Mille Isles.....	The Counties of Terrebonne and Two Mountains.
Inkerman.....	The Counties of Argenteuil, Ottawa and Pontiac.
Alma.....	The Parishes of Long Point, <i>Pointe aux Trembles</i> , <i>River des Prairies</i> , <i>Sault aux Récollets</i> , in the County of Hochelaga, and that part of the Parish of Montreal which lies to the East of the prolongation of St. Denis Street; the County of Laval, that part of the City of Montreal which lies to the East of Bonsecours and St. Denis Streets, and their prolongation.
Victoria.....	The remainder of the City of Montreal exclusive of the Parish.
Rigaud.....	The remainder of the Parish of Montreal, and the Counties of Jacques Cartier, Vaudreuil and Soulanges.
De Salaberry.....	The remainder of the County of Chateauguy, the remainder of the County of Huntingdon, and the County of Beauharnois. 19, 20 V. c. 140, Schedule A.

SCHEDULE

SCHEDULE A—*Continued.*

UPPER CANADA.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Western.....	The Counties of Essex and Kent.
St. Clair.....	The County of Lambton and the West Riding of Middlesex.
Malahide.....	The East and West Ridings of Elgin, the East Riding of Middlesex and the City of London.
Tecumseth.....	The Counties of Huron and Perth.
Saugeen.....	The Counties of Bruce and Grey and the North Riding of Simcoe.
Brock.....	The North and South Ridings of Wellington and the North Riding of Waterloo.
Gore.....	The South Riding of Waterloo and the North Riding of Oxford.
Thames.....	The South Riding of Oxford and the County of Norfolk.
Erie.....	The East and West Ridings of Brant and the County of Haldimand.
Niagara.....	The Counties of Lincoln and Welland and the Town of Niagara.
Burlington.....	The North and South Ridings of Wentworth and the City of Hamilton.
Home.....	The Counties of Halton and Peel.
Midland.....	The North Riding of York and the South Riding of Simcoe.
York.....	The City of Toronto and the Township of York.
King's.....	The East and West Ridings of York (except the Township of York) and the South Riding of Ontario.
Queen's.....	The North Riding of Ontario, the County of Victoria and the West Riding of Durham.

SCHEDULE

SCHEDULE A—*Continued.*

UPPER CANADA.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Newcastle.....	The East Riding of Durham and the East and West Ridings of Northumberland.
Trent.....	The County of Peterborough, the North Riding of Hastings and the County of Lennox.
Quinté.....	The South Riding of Hastings and the County of Prince Edward.
Cataraque.....	The Counties of Addington and Frontenac, and the City of Kingston.
Bathurst.....	The South Riding of Leeds and the North and South Ridings of Lanark.
Rideau.....	The Counties of Renfrew and Carleton and the City of Ottawa.
St. Lawrence....	The Town of Brockville and Township of Elizabethtown, the South Riding of Grenville, the North Riding of Leeds and Grenville and the County of Dundas.
Eastern.....	The Counties of Stormont, Prescott, Russell, Glengarry and the Town and Township of Cornwall. 19, 20 V. c. 140, <i>Schedule A.</i>

SCHEDULE B.

PROVINCE OF CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Returning Officer of the Electoral division of _____,
—Greeting:

WHEREAS (*here mention briefly the occasion requiring the Election.*)

We therefore command you, firmly enjoining that having first made Proclamation in the said Electoral Division of _____, immediately after the receipt of this Our Writ, and thereby

thereby notified (giving not less than eight days' notice thereof) a day and place for electing a Legislative Councillor to serve for the said Electoral Division of _____, in Our Legislative Council, you cause on the said day and place a Legislative Councillor, the most fit and discreet, to be freely and indifferently chosen to represent the said Electoral Division of _____, in Our Legislative Council, by those present at the day of election to be fixed by such Proclamation as aforesaid, and the name of such Legislative Councillor so chosen, in certain Indentures between you and those present at such election (whether the person so chosen be present or absent) you cause to be inserted, and cause the said person so chosen as aforesaid to come to the said Legislative Council, so that the said Legislative Councillor may have full and sufficient power for himself and the commonalty of the said Electoral Division of _____, severally from them to do and consent to those things which then and there, by the favor of God, shall happen to be ordained by the Common Council of Our said Province, upon the said affairs, so that for default of such powers or through improvident election of such Legislative Councillor, the said affairs remain not undone in any wise.

And We will not that any Minister of the Churches of England or Scotland, or a Minister, Priest, Ecclesiastic or Teacher, either according to the rites of the Church of Rome or under any other form or profession of religious faith or worship, by any means be chosen. And that you certify forthwith unto Us, into Our Chancery at the City of _____, the said election so made, distinctly and openly, under your seal and the seals of those present at such election, sending unto Us one part of the said Indentures annexed to these presents, together with this Our Writ.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province of Canada to be hereunto affixed.

Witness,

At Our Government House, at the City of _____
in Our said Province of Canada, the _____
day of _____ in the year of Our Lord, One Thousand
Eight Hundred and _____, and in the
year of Our Reign.

By Command,

A. B.,

Clerk of the Crown in Chancery.

19, 20 V. c. 140, Schedule B.

SCHEDULE

SCHEDULE C.

DECLARATION OF QUALIFICATION.

I, A. B., declare and testify that I am of the full age of thirty years, that I am a British subject, and that I am a resident in (*here insert name of Electoral Division in which the Candidate resides*), that I am duly seized at law (*or in equity*) as of freehold for my own use and benefit, of the following lands (*or tenements*) held in free and common soccage, (*or duly seized and possessed for my own use and benefit of lands*) (*or tenements*) held *en fief or en roture or en franc-aleu (as the case may be)* that is to say, of (*here insert a correct and clear description of the lands or tenements forming the property qualification of the candidate and of their local situation,*) which said lands (*or tenements*) I declare to be of the full value of two thousand pounds currency, over and above all rents, mortgages, charges and incumbrances charged upon or due or payable out of or affecting the same: and I further declare that I have not collusively or colourably obtained a title to or become possessed of the said lands (*or tenements*) or any part thereof, for the purpose of qualifying or enabling me to be returned as a Member of the Legislative Council of this Province. 19, 20 V. c. 140, *Schedule C.*

SCHEDULE D.

OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province of *Canada* dependent on and belonging to the said United Kingdom; and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatever, against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary:— So help me God. 19, 20 V. c. 140, *Schedule D.*

C A P . I I .

An Act respecting the Representation of the People
in the Legislative Assembly.

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

ELECTORAL DIVISIONS.

What Counties, Cities and Towns are intended in this chapter.

1. Except in so far as it is otherwise provided in this Chapter,—the Counties, Cities and Towns herein referred to, 5
are those mentioned in the Chapters of the Consolidated Statutes for Upper and Lower Canada respectively, (or other Statutes in force in the said divisions of the Province, respectively,) concerning Territorial Divisions, as they are therein declared to be bounded for the purpose of Representation in the Legislative 10
Assembly,—And the Cities and Towns herein referred to are those mentioned in the Local or other Statutes, describing and defining the said Cities and Towns, or any of them, for Municipal purposes. 16 V. c. 152, s 4.

Counties to include every place within their real limits not included in some represented City or Town.

2. For the purposes of this Chapter, the Counties and Ridings 15
include every place lying within their respective limits and not expressly included by this Chapter within the limits of some City or Town entitled to return a Member or Members to the Legislative Assembly';

Towns, Villages, augmentations, &c.

2. All augmentations or Gores of Seigniories, Parishes or 20
Townships, and all Towns, Villages or reserves for the same, not specially mentioned in this chapter, shall be considered as forming part of the County or Riding in which the principal part of such locality, or in the immediate vicinity of which such Town, Village or reserve is situate,—unless it is otherwise 25
ordered in some Statute in force ;

Represented Cities and Towns not to form, for the purposes of this chapter, part of the Counties within which they lie.

3. But the several Cities and Towns which under this Chapter are entitled to elect a Member or Members to represent them respectively in the Legislative Assembly, shall not, for the purpose of Representation in the Legislative As- 30
sembly or in the Legislative Council, be deemed to form part of the Counties or Ridings within the limits whereof they respectively lie. 16 V. c. 152, ss. 4, 9.

SPECIAL DIVISIONS FOR PURPOSES OF REPRESENTATION.

In Lower Canada.

City of Quebec.

3. The City of Quebec shall, for the purposes of this chapter, 35
comprise the limits it had immediately before the 14th day of June, 1853, and including the Parishes of Notre Dame of Quebec and Saint Roch of Quebec. 16 V. c. 152, s. 1.—
sub-sec. 19. 4.

4. The City of Montreal shall be comprised within the City of limits it had immediately before the 14th day of June, 1853. Montreal.
ib.—*sub-sect.* 62.

5 3. The City of Three-Rivers shall comprehend the Town of City of Three-Rivers within the limits it had immediately before the 14th day of June, 1853, and the Banlieue of Three-Rivers.
ib.—*sub-sect.* 22.

6. The Town of Sherbrooke shall, for the purposes of this Chapter, comprise the Town of Sherbrooke within the limits it had immediately before the 14th day of June, 1853, and the whole of the Townships of Orford and Ascot. *ib.*—*sub-sect.* 40.

7. The Counties of Chicoutimi and Saguenay,—Drummond and Arthabaska,—Richmond and Wolfe,—shall respectively be United for the purpose of Representation, and each such Union of two Counties shall form an Electoral Division. 16 V. c. 152, s. 3. Certain Counties united.

In Upper Canada.

8. The following Counties in Upper Canada shall be divided into Ridings for the purpose of Representation, and each of such Ridings shall form an Electoral Division : Certain Counties divided into Ridings.

20 1. The County of York shall be divided into three Ridings, to be called respectively the North Riding, the East Riding, and the West Riding ; York.

The North Riding shall consist of the Townships of King, Whitchurch, Georgina, East Gwillimbury and North Gwillimbury ;

The East Riding shall consist of the Townships of Markham, Scarborough, and that portion of the Township of York lying East of Yonge Street and the Village of Yorkville ;

30 The West Riding shall consist of the Townships of Etobicoke, Vaughan, and that portion of the Township of York lying West of Yonge Street ;

2. The County of Middlesex shall be divided into two Ridings, to be called respectively the East Riding and West Riding ; Middlesex.

35 The East Riding shall consist of the Townships of West Nissouri, North Dorchester, Westminster and London ;

The West Riding shall consist of the Townships of Mosa, Eckfrid, Carradoc, Metcalfe, Adelaide, Williams, Lobo and Delaware ;

Oxford. 3. The County of Oxford shall be divided into two Ridings, to be called respectively the North Riding and the South Riding:

The North Riding shall consist of the Townships of East Nissouri, East Zorra, West Zorra, Blandford, Blenheim, and the Town of Woodstock; 5

The South Riding shall consist of the Townships of North Oxford, West Oxford, East Oxford, North Norwich, South Norwich and Dereham;

Hastings. 4. The County of Hastings shall be divided into two Ridings, to be called respectively the North Riding and the South Riding: 10

The North Riding shall consist of the Townships of Lake, Tudor, Grimsthorpe, Marmora, Madoc, Elzevir, Rawdon, Huntingdon, Hungerford, McClure, Herschel, Faraday, Wollaston, Wicklow, Montéagle, Durgannon, Limerick, Bangor, Carlow, Mayo and Cashel;—(as amended by 22 Vict. c. 14. 15

The South Riding shall consist of the Townships of Sydney, Thurlow, Tyendinaga, the Village of Trenton, and the Town of Belleville;

Durham. 5. The County of Durham shall be divided into two Ridings, to be called respectively the East Riding and the West Riding: 20

The East Riding shall consist of the Townships of Cavan, Manvers, Hope and the Town of Port Hope;

The West Riding shall consist of the Townships of Clarke, Darlington and Cartwright;

Northumberland. 6. The County of Northumberland shall be divided into two Ridings, to be called respectively the East Riding and the West Riding: 25

The East Riding shall consist of the Townships of Cramahe, Brighton, Murray, Seymour and Percy;

The West Riding shall consist of the Townships of Hamilton, Haldimand, Alnwick, South Monaghan and the Town of Cobourg;

Ontario. 7. The County of Ontario shall be divided into two Ridings, to be called respectively the North Riding and the South Riding: 35

The North Riding shall consist of the Townships of Reach, Uxbridge, Brock, Scott, Thorah, Mara, Rama and Seugog;

The

The South Riding shall consist of the Townships of Whitby, and East Whitby, Pickering and the Village of Oshawa ; (as amended by 20 V. c. 113.)

8. The County of Wentworth shall be divided into two Wentworth.
5 Ridings, to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of Beverly, Flamborough East, Flamborough West, and the town of Dundas ;

- The South Riding shall consist of the Townships of Saltfleet,
10 Binbrook, Glanford, Barton and Ancaster ;

9. The County of Lanark shall be divided into two Ridings, Lanark.
to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of Sherbrooke North, Dalhousie, Lanark, Ramsay, Lavant, Darling and Pakenham ;

The South Riding shall consist of the Townships of Montague, Elmsley North, Burgess North, Sherbrooke South, Beckwith, Drummond, Bathurst and the Town of Perth ;

10. The County of Simcoe shall be divided into two Ridings, Simcoe.
20 to be called respectively the North Riding and the South Riding :

The North Riding shall consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia, Tiny,
25 Tay, Matchedash, Muskako, Balaclava and Robinson, and the Town of Barrie ;

The South Riding shall consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Adjala, Tosorontio, Mulmar and Mono ;

11. The Counties of Leeds and Grenville shall be formed Leeds and Grenville.
30 into three Ridings, to be called respectively the North Riding of Leeds and Grenville, the South Riding of Leeds, and the South Riding of Grenville :

The North Riding of Leeds and Grenville shall consist of the
35 Townships of Kitley, Elmsley, Wolford, Oxford and South Gower ;

The South Riding of Leeds shall consist of the Townships of Rear of Yonge and Escott, Front of Yonge and Escott, Front of Leeds and Lansdowne, Rear of Leeds and Lansdowne, South Crosby, North Crosby, Bastard and Burgess ;
40 16 V. c. 226.

The

The South Riding of Grenville shall consist of the Townships of Edwardsburgh and Augusta, and the Town of Prescott ;

Wellington. 12. The County of Wellington shall be divided into two Ridings, to be called respectively the South Riding and the North Riding :

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The South Riding shall consist of the Town and Township of Guelph, and the Townships of Puslinch, Eramosa and Erin ;

The North Riding shall consist of the Townships of Nichol, Garafraxa, Pilkington, Peel, Arthur, Maryborough, Amaranth, Luther and Minto ;

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Waterloo. 13. The County of Waterloo shall be divided into two Ridings, to be called respectively, the North Riding and the South Riding :

The North Riding shall consist of the Townships of North Waterloo (including the Town of Berlin,) Woolwich and Wellesley ;

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The South Riding shall consist of the town of Galt and village of Preston, and the Townships of South Waterloo, North Dumfries and Wilmot ;

Township of Waterloo. The present Township of Waterloo being divided, for the purposes of Representation only, into two Townships, to be called respectively the Township of North Waterloo and the Township of South Waterloo : the Township of North Waterloo shall include and consist of that part of the present Township of Waterloo lying within the following limits, that is to say : commencing at the south-west angle of lot Number forty-six in the said Township, thence easterly along the southerly limits of the said lot, and of the lots Numbers forty-seven, forty-eight, fifty, fifty-one and fifty-three, and the prolongation thereof, to the middle of the Grand River, thence along the middle of the River against the stream to the prolongation of the limit between Lots Numbers one hundred and thirteen and one hundred and fourteen, and along the prolongation of the limit between the said Lots Numbers one hundred and thirteen and one hundred and fourteen, and along the limits between the said Lots Numbers one hundred and thirteen and one hundred and fourteen, northerly and easterly, to the westerly limits of Lot one hundred and seven, thence along the westerly limits of the said Lot Number one hundred and seven, northerly, to the northerly limits thereof, thence along the northerly limits of the said Lot Number one hundred and seven and of Lots Number one hundred and six, eighty-four and ninety-six, easterly to the easterly boundary of the said Township, thence along the easterly, northerly and westerly boundaries of the said Township, in a northerly, westerly

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westerly and southerly direction respectively, to the place of beginning: And the Township of South Waterloo to include and consist of all the remaining part of the said present Township of Waterloo;

5 14. The County of Brant shall be divided into two Ridings, Brant. to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of South Dumfries, Onondaga, East Brantford, and the Village of Paris;

The West Riding shall consist of the Townships of Burford,
10 Oakland, Tuscarora, West Brantford, and the Town of Brantford;

The present Township of Brantford being divided, for the purposes of Representation only, into the Townships of East Brantford and West Brantford: The Township of East Brantford shall include and consist of all that portion of the present Township of Brantford which lies on the east side of the Grand River: And the Township of West Brantford to include and consist of all the remainder of the present Township of Brantford;

Township of Brantford.

15 15. The County of Elgin shall be divided into two Ridings, Elgin. to be called respectively the East Riding and the West Riding:

The East Riding shall consist of the Townships of Bayham, Malahide, Yarmouth, South Dorchester and the Village of St. Thomas;

The West Riding shall consist of the Townships of Southwold,
25 Dunwich and Aldborough. 16 V. c. 152, s. 2, part.

9. The Counties of Huron and Bruce—and the Counties of Lennox and Addington,—shall respectively be united for the purpose of representation; and each such Union of two Counties shall form an Electoral Division.

Certain Counties united.

30 1. Each of the other Counties in Upper Canada, that is to say, each of the Counties of Carleton, Dundas, Essex, Frontenac, Glengarry, Grey, Haldimand, Halton, Kent, Lambton, Lincoln, Norfolk, Peterborough, Peel, Perth, Prescott, Prince Edward, Renfrew, Russell, Stormont, Victoria and Welland, shall form an Electoral Division;

Each of the other Counties in U. C., to be an Electoral Division.

2. But the Townships of Gloucester and Osgoode shall, for the purpose of representation only, be detached from the County of Carleton and attached to the County of Russell;

Special provision as to Carleton and Russell.

3. The City of Toronto shall form an Electoral Division.

City of Toronto.

40 4. The City of Kingston shall form an Electoral Division;

City of Kingston.

- City of Hamilton. 5. The City of Hamilton shall form an Electoral Division ;
- Town of Brockville. 6. The Town of Brockville shall form an Electoral Division, and shall, for the purpose of Representation only, include in addition to its present limits, the whole of the Township of Elizabeth-Town, which shall for the said purpose be detached 5 from the County of Leeds ;
- Town of Niagara. 7. The Town of Niagara shall form an Electoral Division, and shall, for the purpose of Representation only, include, in addition to its present limits, the whole of the Township of Niagara, which shall for the said purpose be detached from 10 the County of Lincoln ;
- Town of Cornwall. 8 The Town of Cornwall shall form an Electoral Division, and shall for the purpose of Representation only, include, in addition to its present limits, the whole of the Township of Cornwall, which shall be detached from the County of Stormont; 15
- City of London. 9. The City of London shall form an Electoral Division ;
- City of Ottawa. 10. The City of Ottawa shall form an Electoral Division. 16 V. c. 152, s. 2, *part*.

REPRESENTATION.

How the Electoral Divisions in L. C. shall be represented in the Legislative Assembly.

10. In Lower Canada, the Counties of Gaspé, Bonaventure, Rimouski, Temiscouata, Kamouraska, L'Islet, Montmagny, 20 Bellechasse, Lévi, Dorchester, Beauce, Mégantic, Lotbinière, Charlevoix, Montmorency, Quebec, Portneuf, Champlain, St. Maurice, Maskinongé, Nicolet, Yamaska, Berthier, Joliette, Montcalm, L'Assomption, Terrebonne, Two-Mountains, Argenteuil, Ottawa, Pontiac, Compton, Stanstead, Shefford, Brome, 25 Mississiquoi, Richelieu, St. Hyacinth, Rouville, Bagot, Iberville, Verchères, Chambly, Laprairie, St. Johns, Napierville, Chateaugai, Beauharnois, Huntingdon, Soulanges, Vaudreuil, Laval, Hochelaga and Jacques Cartier, shall be represented each, by one Member in the Legislative Assembly ; the 30 United Counties of Chicoutimi and Saguenay, by one Member ; the United Counties of Drummond and Arthabaska, by one Member ; the United Counties of Richmond and Wolfe, by one Member ; the Cities of Quebec and Montreal, each by three Members ; the City of Three-Rivers and the Town of Sher- 35 brooke, each by one Member ;

And those in U. C. 2. And in Upper Canada, the City of Toronto shall be represented in the Legislative Assembly by two Members, and each of the other Electoral Divisions of that portion of the Province by one Member each. 16 V. c. 152, s. 3, *amended by* 18 V. c. 40 76.

C A P . I I I .

An Act containing special provisions concerning both Houses of the Provincial Parliament.

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

PARLIAMENT CONTINUED NOTWITHSTANDING THE DEMISE OF THE CROWN.

1. No Parliament of this Province, summoned or called by Provincial Parliament not dissolved by demise of the Crown.
 5 Our Sovereign Lady Queen, or Her Heirs and Successors, shall determine or be dissolved by the demise of the Crown, but such Provincial Parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding such demise of the Crown, in the same manner as if such demise had
 10 not happened. 7 V. c. 3, s. 1.

2. Nothing in the next preceding section shall alter or Certain power of Her Majesty, not to be abridged.
 abridge the power of Her Majesty the Queen, Her Heirs and Successors, to prorogue or dissolve the Provincial Parliament
 of this Province. 7 V. c. 3, s. 2.

15 **DISQUALIFICATION AS MEMBERS OF EITHER HOUSE.**

3. No Member of one House of the Provincial Parliament shall be elected a member of the other. 19, 20 V. c. 140, s. 6. Disqualification of members of either House.

4. Except as hereinafter specially provided—

1. No person accepting or holding any office, commission No person holding any office, &c., of emolument, to be eligible as a member of either House.
 20 or employment, permanent or temporary, at the nomination of the Crown in this Province, to which an annual salary, or any fee, allowance or emolument or profit of any kind or amount whatever from the Crown is attached, shall be
 eligible as a Member of the Legislative Council or of the
 25 Legislative Assembly, nor shall he sit or vote in the Legislative Assembly, or in the Legislative Council as an elected Member thereof, during the time he holds such office, occupation or employment ;

2. Nothing in this section shall render ineligible as aforesaid, Exception,— as regards the members of the Executive Council and certain Officers.
 30 any person being a Member of the Executive Council of this Province, or holding any of the following offices, that is to say : of Receiver General, Inspector General, Secretary of the Province, Commissioner of Crown Lands, Attorney General, Solicitor General, Commissioner of Public Works, President of Committees of the Executive Council, Minister of Agriculture or Postmaster General, or shall disqualify him to sit or vote in either
 2* House,

House, provided he be elected while holding such office, and not otherwise disqualified ;

Exception.—
as to Officers
in the Army,
Navy or
Militia.

3. Nothing in this section shall render ineligible, as aforesaid, or disqualify to sit or vote in either House, any Officer in Her Majesty's Army or Navy, or any Officer in the Militia or Militiaman (except Officers on the Staff of the Militia receiving permanent salaries) unless he be otherwise disqualified ;
20 V. c. 22, s. 3. 5

Exception.—
as to the
Speaker of
the Legisla-
tive Council.

4. The acceptance by a member of the Legislative Council of the office of Speaker thereof shall not vacate his seat. 19, 10
20 V. c. 140, s. 22, and 20 V. c. 22, s. 15.

No public
contractor,
&c., to be
eligible as a
member of
either House.

5. No person whosoever holding or enjoying, undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, any contract or agreement with Her Majesty, or with any Public Officer or Department, with respect to the public service of the Province, or under which any public money of the Province is to be paid for any service, work, matter or thing, shall be eligible as a Member of the Legislative Council or of the Legislative Assembly, nor shall he sit or vote in the Legislative Assembly, or in the Legislative Council as an elected Member thereof. 20 V. c. 22, s. 4. 15 20

Election of
persons dis-
qualified, to
be null.

6. If any person hereby disqualified or declared incapable of being elected a Member of the Legislative Council or of the Legislative Assembly, is nevertheless elected and returned as a member of either House, his election and return shall be null and void. 20 V. c. 22, s. 5. 25

PENALTY ON DISQUALIFIED PERSONS SITTING.

No disquali-
fied person to
sit or vote in
either House.

7. No person disqualified by the next preceding sections or by any other law, to be elected a Member of the Legislative Council or of the Legislative Assembly, shall sit or vote in the House in respect of which he is disqualified, while he remains under such disqualification. 30

Penalty for so
doing in cer-
tain cases.

And if any person disqualified or declared incapable of sitting or voting in the Legislative Council or in the Legislative Assembly, by the fourth, fifth or sixth sections, sits or votes therein, he shall thereby forfeit the sum of five hundred pounds currency, for each and every day on which he so sits or votes ; and such sum may be recovered from him by any person who will sue for the same, by action of debt, bill, plaint or information in any Court of competent civil jurisdiction in this Province. 20 V. c. 22, s. 5, *part*. 35 40

How recover-
able.

DISQUALIFICATION

DISQUALIFICATION AND VACANCY BY ACCEPTANCE OF OFFICE.

8. If any Member of the Legislative Assembly or any elected Member of the Legislative Council, by accepting any office or becoming a party to any contract or agreement, becomes disqualified by law to continue to sit or vote in the said Legislative Assembly or Council, his election shall thereby become void, and the seat of such Member shall be vacated, and a Writ shall forthwith issue for a new election as if he were naturally dead; but he may be re-elected as a Member of either House if he be eligible under section four of this chapter. 20 V. c. 22, s. 6.

Member accepting office, to vacate his seat.

But may be re-elected if eligible under s. 4.

9. Nevertheless, whenever any person holding the office of Receiver General, Inspector General, Secretary of the Province, Commissioner of Crown Lands, Attorney General, Solicitor General, Commissioner of Public Works, Speaker of the Legislative Council, President of Committees of the Executive Council, Minister of Agriculture or Post Master General, and being at the same time a Member of the Legislative Assembly or an elected Member of the Legislative Council, resigns his office, and within one month after his resignation accepts any other of the said offices, he shall not thereby vacate his seat in the said Assembly or Council. 20 V. c. 22, s. 7.

Certain officers may resign one office and accept another within a month without vacating.

RESIGNATION OF MEMBERS AND FILLING VACANCIES.

10. Any Member of the Legislative Assembly or any elected Member of the Legislative Council, may voluntarily resign and vacate his seat in the manner hereinafter provided. 20 V. c. 22, s. 8.

Members may resign their seats.

11. Any such Member wishing to resign his seat, may do so by giving in his place in the Legislative Assembly or Legislative Council notice of his intention to resign it, in which case and immediately after such notice has been entered by the Clerk on the Journals of the House, the Speaker may address his Warrant under his hand and seal, to the Clerk of the Crown in Chancery, for the issue of a Writ for the election of a new member in the place of the member resigning;

Member wishing to resign, may give notice in his place.

Notice to be entered on the Journals.

Speaker may issue his warrant, &c.

2. Or such member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a Session of Parliament or in the interval between two Sessions,—and the Speaker may upon receiving such declaration forthwith address his Warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a Writ for the Election of a new Member in the place of the Member so resigning, and a Writ shall issue accordingly,—and an entry of

Or the member may send a declaration to the Speaker of his intention to resign, &c.

Speaker may issue his Warrant, &c.

Writ to issue.

Entry in the Journals. of the declaration so delivered to the Speaker shall be thereafter made in the Journals of the House ;

Member tendering his resignation to cease to be a member. **3.** And the Member so tendering his resignation, shall be held to have vacated his seat and cease to be a member of such House. 20 V. c. 22, s. 9. 5

No member to resign while his seat is contested, &c. **12.** But no Member shall so tender his resignation while his election is lawfully contested, nor until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery. 20 V. c. 22, s. 10.

Member wishing to resign his seat between two sessions, when there is no Speaker, &c., may address the declaration to any two members of the House, who shall address their warrant to the Clerk of the Crown in Chancery for the issue of a new writ. **13.** If any Member of the Legislative Assembly or any elected Member of the Legislative Council wishes to resign his seat in the interval between two Sessions of the Parliament, and there is then no Speaker of the House to which such Member belongs, or if such Member be himself the Speaker,--he may address and cause to be delivered to any two Members of the said House, the declaration before mentioned of his intention to resign ; and such two Members upon receiving such declaration shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery, for the issue of a new writ for the election of a Member in the place of the Member so notifying his intention to resign, and such writ shall issue accordingly :--And the member so tendering his resignation shall be held to have vacated his seat and cease to be a member of such House. 20 V. c. 22, s. 11. 10
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Such writ to issue. **14.** If any vacancy happens in the Legislative Council or in the Legislative Assembly by the death of any Member or by his accepting any Office, the Speaker of the House to which such Member belonged, on being informed of such vacancy by any Member of such House in his place,--or by notice in writing under the hands and seals of any two Members of such House,--shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ shall issue accordingly : 25
30

New writ to issue accordingly. **2.** And if when such vacancy happens, or at any time thereafter before the Speaker's warrant for a new writ has issued, there be no Speaker of the House, or the Speaker be absent from the Province, or if the Member whose seat is vacated be himself the Speaker,--then, any two Members of the House may address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member to fill such vacancy, and such writ shall issue accordingly. 20 V. c. 22, s. 12. 35
40

Notice of vacancy to the Clerk of the Crown in **15.** The notice of any vacancy in the Legislative Council or Legislative Assembly, given to the Clerk of the Crown in Chancery, in and by any warrant of the Speaker or of two Members 45

Members of the proper House, in the manner hereinbefore provided, shall be held to be the notice of such vacancy mentioned in the twenty-fourth section of the Act of Imperial Parliament passed in the Session held in the third and fourth 5 years of Her Majesty's Reign, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.* 20 V. c. 22, s. 13.

Chancery, &c., to be notice under the Union Act.

16. A warrant may issue to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a Member 10 of the Legislative Assembly to fill up any vacancy arising subsequently to a general election and before the first meeting of Parliament thereafter, by reason of the death or acceptance of office of any Member, and such writ may issue at any time after such death or acceptance of office ;

To fill a vacancy after a general election and before the meeting of Parliament, a warrant may issue.

15 2. But the election to be held under such writ, shall not in any manner affect the rights of any person entitled to contest the previous election ; and the report of any Election Committee appointed to try such previous election, shall determine whether the Member who has so died or ac- 20 cepted office, or any other person, was duly returned or elected thereat, which determination, if adverse to the return of such Member and in favor of any other Candidate, shall avoid the election held under this section, and the Candidate declared duly elected at the previous election shall be entitled to take his 25 seat as if no such subsequent election had been held. 20 V. c. 22, s. 14.

Proviso—not to affect the right of any person to contest.

Report of Election Committee to decide, &c.

17. The foregoing enactments shall be subject to the provision in the twenty-second section of chapter I, of these *Consolidated Statutes* concerning the constitution of the Legisla- 30 tive Council ; and an accidental vacancy of the seat in the said Council for any electoral division, happening within the three months next before the regular periodical vacancy of such seat, shall not be filled until the time appointed for filling such periodical vacancy ;—And nothing herein contained shall 35 affect the provisions of the twentieth section of the said chapter,—and the acceptance of the Office of Speaker of the Legislative Council by an elected Member thereof, shall not vacate his seat. 20 V. c. 22, s. 15.

Provision as to accidental vacancies in Legislative Council ;

And as to appointment of a Councillor as Speaker.

CAP. IV.

An Act respecting the Internal Economy of the Legislative Assembly.

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

OFFICE OF SPEAKER.

Speaker may call upon a member to take the chair on account of illness or other cause.

1. Whenever the Speaker of the Legislative Assembly, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the said Assembly on any day, he may call upon any member thereof to take the chair and to act as Speaker during the remainder of such day, unless the Speaker himself resume the chair before the close of the sittings for that day: and the member so called upon shall take the chair and act as Speaker accordingly; and every Act passed, and every order made and thing done by the said Assembly, while such member is acting as Speaker as aforesaid, shall be as valid and effectual to all intents and purposes as if done while the Speaker himself was presiding in the chair. 19, 20 15
V. c. 41.

ALLOWANCE TO MEMBERS.

Allowance to members.

2. There shall be allowed to each member of the Legislative Assembly attending at any session thereof, twenty shillings for each day's attendance thereat, and six pence for each mile of the distance between the place of residence of such member and the place at which the session is held. 20
12 V. c. 33, s. 1.

Sum due to be paid by the Clerk.

3. The sum so due to each member at the close of any session, shall be paid to him by the Clerk of the Legislative Assembly, on such member signing a declaration to be kept by the said Clerk, and stating the number of days' attendance and the number of miles of distance for which such member is entitled to an allowance, and the amount of such allowance; And each day on which the member has attended any sitting of the Legislative Assembly or of any committee thereof, and each day during the session on which there was no sitting of the Legislative Assembly, or on which he was prevented by sickness from attending any sitting, but on which (in either case) he was in the place where the session was held, shall be reckoned as a day of attendance at such session. 25
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35
12 V. c. 33, s. 2.

What shall be reckoned days of attendance.

Sessional allowance to be paid out of Consolidated Revenue Fund.

4. There is granted to Her Majesty, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of this Province, an annual sum, sufficient to enable Her Majesty to advance to the Clerk of the Legislative Assembly the sum required to pay the estimated amount of such sessional 40
sessional

sessional allowance, according to the foregoing provisions
12 V. c. 33, s. 3.

5. The Clerk of the Legislative Assembly shall account for the moneys he receives under this chapter, in the same manner as for moneys advanced to him for the contingent expenses of the said Legislative Assembly, and may apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount to meet the same, out of any moneys in his hands applicable to the payment of such contingent expenses. 12 V. c. 33, s. 4.

The Clerk to account for the moneys he receives.

Surplus to be applied to pay contingencies.



C A P .

C A P . V .

An Act respecting the Provincial Statutes.

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

FORM OF ENACTING.

Former enact-
ing clause to
be disused.

1. The following words, formerly inserted in the Preamble of Statutes and indicating the authority by virtue of which they are passed : “ Be it therefore enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :” shall be disused and replaced by the words following, “ Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows : 18 V. c. 88, s. 1. ”

Another form
substituted.

Clauses to
follow in a
concise form.

2. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall with these considerations or reasons constitute the entire Preamble, the various clauses of the Statute shall follow in a concise and enunciative form. 18 V. c. 88, s. 2.

INTERPRETATION.

To what Act
the interpre-
tation clauses
of this chapter
shall apply.

3. This section and the fourth, fifth and sixth sections of this Chapter, and each provision thereof, shall extend and apply to the *Consolidated Statutes*, and to every Act passed in the Session held in the twelfth year of Her Majesty’s Reign, or in any subsequent Session of the Provincial Parliament, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision thereof is in any such Act declared not applicable thereto ;—Nor shall the omission in any Act of a declaration that the “ Interpretation Act” shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session. 12 V. c. 10, s. 1.

4. The Clerk of the Legislative Council shall endorse on every Act of the Parliament of this Province, immediately after the title of such Act, the day, month and year when the same was by the Governor assented to in Her Majesty's name, or reserved the same for the signification of Her Majesty's pleasure thereon,---and in the latter case, he shall also endorse thereon the day, month and year when the Governor has signified either by speech or message to the Legislative Council and Assembly, or by Proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same ;---And such indorsement shall be taken to be a part of such Act, and the date of such Assent or Signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement be therein provided. 12 V. c. 10, s. 2.

Date of assent to be endorsed on every Act.
As to reserved Acts.

Effect of such indorsement.

5. Any Act of the Parliament of this Province may be amended, altered or repealed by any Act to be passed in the same Session thereof. 12 V. c. 10, s. 3.

Acts may be amended, &c., during same Session.

6. Subject to the limitations aforesaid,---in every Act of the Parliament of this Province, to which this section applies ;

Interpretation of certain words, &c., viz :

First. The words " Her Majesty," " the Queen," or " the Crown," shall mean---Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland ;

Her Majesty, &c.

25 *Secondly.* The words " Governor," " Governor of this Province," " Governor General," or " Governor in Chief," shall mean---the Governor, Lieutenant Governor, or person administering the Government of this Province for the time being ;

Governor, &c.

30 *Thirdly.* The words " Governor in Council," shall mean---the Governor, Lieutenant-Governor, or person administering the government of this Province for the time being, acting by and with the advice of the Executive Council thereof ;

Governor in Council.

Fourthly. The words " Lower Canada," shall mean all that part of this Province which formerly constituted the Province of Lower Canada ;

Lower Canada.

Fifthly. The words " Upper Canada," shall mean all that part of this Province which formerly constituted the Province of Upper Canada ;

Upper Canada.

40 *Sixthly.* The words " the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland ;---and the words " the United States," shall mean the United States of America ;---And generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation,

United Kingdom.

United States.
Names of places, officers, &c.

corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof ;

- Number and gender.** *Seventhly.* Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse ; 5
- Person.** *Eighthly.* The word " person," shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of the Province to which such context extends ; 10
- Writing—written.** *Ninthly.* The words " writing," " written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied ; 15
- Now—next.** *Tenthly.* The word " now" or " next," shall be construed as having reference to the time immediately before the commencement of the Session in which the Act was presented for the Royal Assent ;
- Month.** *Eleventhly.* The word " month" shall mean a calendar month ; 20
- Holiday.** *Twelfthly.* The word " holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's Day, all Saints Day and Christmas Day,—and any day appointed by Proclamation for a General Fast or Thanksgiving ; 25
- Oath.** *Thirteenthly.* The word " oath" shall be construed as meaning a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made instead of an oath :—And in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made ;—And the wilful making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury,—and the wilful making of any false statement in any declaration required or authorized by any such Act as aforesaid, shall be a misdemeanor punishable as wilful and corrupt perjury ; 30
- Power to administer**
- Perjury.** 35
- Registrar—Register.** *Fourteenthly.* The words " Registrar" or " Register" in any such Act, applying to the whole Province, shall mean and include indifferently Registrars and Registers in Lower Canada and in Upper Canada, and their Deputies, respectively ; 40
- Contravention of Acts.** *Fifteenthly.* Any wilful contravention of any such Act as aforesaid, which is not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly ;
Sixteenthly.

Sixteenthly. Whenever any wilful contravention of any such Act is made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable ;

Punishment for contravention in certain cases.

Seventeenthly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any such Act as aforesaid,—then, if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself,—in any form allowed in such case by the law of that part of the Province where it is brought,—before any Court having jurisdiction to the amount of the penalty in cases of simple contract,—upon the evidence of any one credible witness other than the Plaintiff or party interested ; And if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown ;

Recovery of pecuniary penalties when no other mode is provided.

Eighteenthly. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any such Act as aforesaid given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly ;

Penalties not otherwise appropriated to form part of Con. Rev. Fund.

Nineteenthly. If any sum of the public money be, by any such Act as aforesaid, appropriated for any purpose or directed to be paid by the Governor,—then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor directed to the Receiver General, out of the Consolidated Revenue Fund of this Province : And all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor may direct ;

Paying and accounting for moneys appropriated by Statute.

Twentiethly. The word “Magistrate” shall mean a Justice of the Peace ;—the words “two Justices,” shall mean two or more Justices of the Peace, assembled or acting together ;—And if any thing is directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done :—And whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to

Magistrate—Justices.

Power to do any Act to include all to

necessary powers for doing it.

to enable such person, officer or functionary to do or enforce the doing of such act or thing ;

Imprisonment—where to be when no special place is mentioned.

Twenty-firstly. If in any such Act as aforesaid, any party is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality ; and the keeper of any such common gaol shall receive such person, and him safely keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken ;

Power to appoint to include power to remove, &c.

Twenty-secondly. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested ;

Name of Office to include Successor's Deputy.

Twenty-thirdly. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his Name of Office, shall include his Successors in such Office, and his or their lawful Deputy ;

Words constituting a corporation to vest certain powers in it.

Twenty-fourthly. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the corporation is constituted, and to alienate the same at pleasure ; and shall also vest in any majority of the members of the Corporation, the power to bind the others by their acts ; and shall exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them ;—But no Corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such Corporation ;

Not to authorize Banking.

Acts not to affect the Crown, &c., unless expressly declared so to do.

Twenty-fifthly. No provision or enactment in any such Act, as aforesaid, shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is expressly stated therein that Her Majesty shall be bound thereby ; nor shall it affect the rights of any person or of any body politic, corporate or collegiate, (such only excepted as are therein mentioned,) unless such Act is a Public General Act.

Twenty-sixthly.

Twenty-sixthly. Every such Act as aforesaid shall be so construed as to reserve to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by the Legislature to be required for the public good; And unless it is otherwise expressly provided in any such Act passed for chartering any Bank, it shall be in the discretion of the Legislature at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as to the said Legislature appears expedient.

Power to amend Act.

And if it be a Bank Act.

Twenty-seventhly. If any such Act as aforesaid be declared to be a Public Act, such declaration shall be construed as an enactment that such Act shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded;—And every such Act which shall not, either by its nature or by express provision, be a Public Act, shall be deemed a Private Act, and shall be judicially noticed only when specially pleaded;—And all copies of any such Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn;

Public Act.

Private Act.

Printed copies of Acts.

Twenty-eighthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act;—And every such Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which the Legislature deems to be for the public good or to prevent or punish the doing of any thing which it deems contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to their true intent, meaning and spirit.

Preamble to be part of Act.

All Acts remedial.

Twenty-ninthly. Nothing in this Section shall exclude the application to any such Act as aforesaid, of any Rule of Construction applicable thereto, and not inconsistent with this Section, or to exclude the application of any Rule of Construction in this Section to any Act passed in any Session before that held in the twelfth year of Her Majesty's Reign, if without this Section such Rule would have been applicable thereto;

Application of Rules of Construction inserted or not inserted herein.

Thirtiethly. The provisions of this Section shall apply to the construction thereof, and to the words and expressions used therein. 12 V. c. 10, s. 5.

This Section to apply to words, &c., in this Act.

DISTRIBUTION

DISTRIBUTION OF THE PRINTED STATUTES.

7. The Clerk of the Legislative Council shall furnish Her Majesty's Printer with a certified copy of every Act of the Provincial Parliament, so soon as the same has received the Royal Assent, or if the Bill has been reserved, so soon as the Royal assent thereto has been proclaimed in this Province. 5
8 V. c. 68, s. 2.

8. Her Majesty's Printer shall, immediately after the close of each Session of the Provincial Parliament, or so soon after as may be practicable, deliver or transmit by Post, or otherwise, in the most economical mode, the proper number of printed 10 copies of the Acts of the Legislature, in the English language or French language, or both languages, (to be printed by him at the public expense,) to the parties hereinafter mentioned, that is to say :

To the Members of the two Houses of the Legislature res- 15
pectively, such numbers of copies each, as may from time to time be directed by any joint Resolution of the said House, or in default of such Resolution, in such numbers as shall be directed by any order of the Governor in Council, and to such Public Departments, Administrative Bodies and Officers, 20
throughout the Province, as may be specified in any order to be for that purpose made from time to time by the Governor in Council ;

Provided and when any Bill receives the Royal assent during and before the termination of any Session of the Provincial 25
Parliament, Her Majesty's Printer shall, on intimation to that effect from the Secretary of the Province, cause distribution to be made of such number of copies thereof, to the same parties, and in like manner as is hereinbefore provided, in regard to the Acts of any Session. 8 V. c. 68, s. 3. 30

9. The Secretary of the Province shall, within fifteen days after the close of each Session of the Provincial Parliament, transmit to Her Majesty's Printer a list of all the Public Depart- 35
ments, Administrative Bodies and Officers to whom such copies are to be transmitted as aforesaid, and shall also, from time to time, as occasion requires, furnish him with copies of all orders in Council made under the provisions of this Chapter. 8 V. c. 68, s. 4.

10. If after the distribution of the said printed Acts any copies remain in the hands of Her Majesty's Printer, he may 40
deliver any number thereof to any person by order of the Governor, on notice thereof by the Secretary of the Province,— or to the Members of the Legislative Council or of the Legislative Assembly, on the order of the Speaker of the said Houses respectively. 8 V. c. 68, s. 5. 45

11. Each volume of the Provincial Statutes, distributed under this chapter, shall be half-bound in cloth, with backs of White Sheep, and lettered; and the Statutes shall be printed in Royal Octavo Form, on fine paper, in Small Pica Type, thirty-two ems by ~~forty-five~~ ^{forty} ems, including marginal notes in Brevier, such notes referring to the year and chapter of previous Statutes, whenever the text amends, repeals or changes the enactments of former years. 14, 15 V. c. 81, s. 2.

How the Statutes shall be printed and bound.

12. Her Majesty's Printer shall, before the opening of each Session of the Provincial Parliament, make a Report in triplicate to the Governor, (to be by him laid before each of the other Branches of the Legislature within fifteen days after the opening of such Session), shewing the number of copies of the Acts of each Session which have been printed and distributed by him since the then last Session,—and the Departments, Administrative Bodies, Officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the numbers of copies of the Acts of each Session then remaining in his hands,—and containing also a detailed account of the expenses by him actually incurred in carrying this Chapter into effect, to the end that provision may be made for defraying the same, after such account has been duly audited and allowed. 8 V. c. 68, s. 6.

Printer to report in triplicate to the Governor, shewing the number of copies printed and distributed.

And also the expense.

13. The party obtaining a private or personal Act shall furnish, at his own cost, one hundred and fifty printed copies of such Act to the Provincial Government; but such copies need not be furnished in the French language if the Act relates only to Upper Canada. 12 V. c. 16, s. 3—*the only part unrepealed.*

Parties obtaining private Acts, to furnish 150 copies.

PROOF OF PROVINCIAL STATUTES.

14. Any copy of the Statutes and Ordinances of the late Province of Lower Canada, printed and published by the Printer duly authorized to print and publish the same by Her Majesty, or by any of Her Royal Predecessors, shall be received as conclusive evidence of the several Statutes made and enacted prior to the Union of the Provinces of Upper and Lower Canada, by the Legislature of the Province of Lower Canada, and of the tenor of such Statutes and Ordinances, in any Court of Civil or Criminal Jurisdiction in Upper Canada.

Copies of Acts of L. C. printed by Queen's Printer to be conclusive evidence thereof.

2. And in like manner a copy of the Statutes of the late Province of Upper Canada, printed and published by the Printer duly authorized by Her Majesty, or by any of Her Royal Predecessors, to print and publish the same, shall be received as conclusive evidence of the several Statutes made and enacted by the Legislature of the said Province of Upper Canada, prior to the Union of the said Provinces of Upper and Lower Canada, and of the tenor of such Statutes, in any Court of Civil or Criminal Jurisdiction in Lower Canada. 7 V. c. 4, s. 1.

Copies of Acts of U. C. printed by Queen's Printer to be conclusive evidence thereof.

15. This chapter may be cited as "The Interpretation Act."

Short title of this chapter.

CAP VI.

An Act respecting Elections of Members of the Legislature.

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

WHO SHALL NOT VOTE AT ELECTIONS.

Persons disqualified from voting for members of the Legislative Council or Legislative Assembly.

1. The Chancellor and Vice Chancellors of Upper Canada,—the Chief Justice and Judges of the Court of Queen's Bench for Lower Canada,—the Chief Justices and Judges of the Courts of Queen's Bench and Common Pleas in Upper Canada, and of the Superior Court in Lower Canada,—the Judge of the Court of Vice Admiralty in Lower Canada,—the Judge of any Court of Escheats,—all County and Circuit Judges, all Commissioners of Bankrupts,—all Recorders of Cities,—all Officers of the Customs,—all Clerks of the Peace, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown and Agents for the sale of Crown Lands,—and all Officers employed in the collection of any duties payable to Her Majesty in the nature of duties of excise,—shall be disqualified and incompetent to vote at any election of a Member of the Legislative Council or of the Legislative Assembly ;

Penalty for contravention.

2. And if any public officer or person mentioned in this section votes at any such election, he shall forfeit thereby the sum of five hundred pounds, to be recovered by such person as shall sue for the same, by action of debt, bill, plaint or information, in and before any Court of competent civil jurisdiction in this Province, and his vote at such election shall be null and void. 20 V. c. 22, s. 2.

Certain officers and persons not to vote.

2. No Returning Officer, Deputy-Returning Officer, Election Clerk or Poll Clerk,—and no person who, at any time, either during the Election or before the Election, is or has been employed at the said Election or in reference thereto, or for the purpose of forwarding the same, by any Candidate or by any person whomsoever, as Counsel, Agent, Attorney or Clerk, at any polling place at any such Election, or in any other capacity whatever, and who has received or expects to receive, either before, during or after the said Election, from any candidate or from any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any promise, pledge or security whatever for any sum of money, fee, office, place or employment,—shall be entitled to vote at any Election of a Member of the Legislative Council or Assembly. 22 V. c. 82, s. 3.

3. No woman is or shall be entitled to vote at any such Election, for any Electoral Division whatever. 12 V. c. 27, s. 46. No woman to vote.

WHO MAY VOTE AT ELECTIONS.

4. The following persons, and no other persons, being of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified under the preceding sections, or otherwise by law prevented from voting, shall, if duly registered or entered on the revised and certified list of voters according to the provisions of this chapter, be entitled to vote at Elections of Members to serve in the Legislative Council or Legislative Assembly of this Province, that is to say :

1. Every male person entered on the then last Assessment-Roll, revised, corrected and in force in any City or Town entitled to send a Member or Members to the Legislative Assembly, as the owner or as the tenant or occupant of real property therein as bounded for municipal purposes, of the assessed value of three hundred dollars or upwards, or of the assessed yearly value of thirty dollars or upwards,—or who is entered on such last revised and corrected Assessment-Roll of any Township, Parish or Place, as the owner, tenant or occupant of any real property which is within the limits of any such City or Town for the purposes of Representation, but not for municipal purposes, of the assessed value of two hundred dollars at least, or of the assessed yearly value of twenty dollars, or upwards,—shall be entitled to vote at any Election of a Member to represent in the Legislative Council the Electoral Division of which such City or Town forms a part,—and shall also be entitled to vote at any Election of a Member to represent in the Legislative Assembly the said City or Town : subject always to the provisions hereinafter contained ;

Qualification of electors in Cities and Towns sending members to the Legislative Assembly.

2. Every male person entered on the then last Assessment-Roll, revised, corrected and in force in any Parish, Township, Town, Village or place, not being within any City or Town entitled to send a Member or Members to the Legislative Assembly, as the owner, tenant or occupant of real property of the assessed value of two hundred dollars or upwards,—or of the yearly assessed value of twenty dollars or upwards, shall be entitled to vote at any Election of a Member to represent in the Legislative Council the Electoral Division of which such Parish, Township, Town, Village or place forms a part,—and shall also be entitled to vote at any Election of a Member to represent in the Legislative Assembly the Electoral Division in which such Parish, Township, Town, Village or place is included : subject always to the provisions hereinafter contained ;

Qualification of electors in places not within Cities and Towns sending members to the Legislative Assembly.

- In what cases joint owners or tenants of any property may vote on it. 3. Whenever two or more persons, whether as being partners in business, joint tenants or tenants in common, or *par indivis*, are entered on such Assessment-Roll as aforesaid, as the owners of any real property, or as tenants or occupants thereof, each of such persons shall be entitled to vote and to be entered on the list of voters in respect of such property, if the value of his part or share be sufficient to entitle him to vote at any Election for Members to represent in the Legislative Council or Assembly the Electoral Division within which such property is situate, if such property were assessed in his individual name:—Except that if the property be held by any body corporate, no one of the Members thereof shall be entitled to vote or be entered on the list of voters, in respect of such property; And provided that in Upper Canada such persons, as in this sub-section mentioned, must establish their right before the Court of Revision or County Judge according to the provisions of the Assessment Laws, and be entered on the Assessment-Roll accordingly. 22 V. c. 82, s. 2. 5
- Exception, as to a body Corporate. Proviso—such persons to establish their right before a Court of Revision, &c., 15
- When the property lies within the limits of two polling places, owner may vote at either. 4. And when any real property, although wholly within the same County, Riding or Electoral Division, nevertheless lies partly within the limits of one of the Polling places opened and kept therein, and partly within the limits of another of the said polling places, the person entitled to vote as the owner or occupant of such property may vote at either of the said polling places at his discretion. 12 V. c. 27, s. 36, part. 25

INTERPRETATION.

- Interpretation of certain words as regards Lower Canada. 5. Wherever the following words occur in any part of this Chapter as having reference to Lower Canada, they shall be interpreted as follows: 30
- Assessment-Roll. 2. The words "Assessment-Roll" shall signify Assessment-Roll, Valuation-Roll, or any document containing a statement of the Valuation of property in any City, Town or other Municipality; 30
- Assessor. 3. The word "Assessor" shall signify Assessor, Valuator or other person employed to make the valuation of property in any City or other Municipality; 35
- Owner. 4. The word "Owner" shall signify proprietor, either in his own right or in the right of his wife, or as usufructuary (*usufruitier*) of a real estate in *fief*, in *censive*, in *franc-aleu*, or in free and common soccage; 22 V. c. 82, s. 23.
- Persons having a mere right of property in any real property, not entitled to vote upon it. 5. So that in Lower Canada, whenever any person has the mere right of property in any real property, and some other person has the usufructuary enjoyment (*la jouissance et l'usufruit*) of the same for his own use and benefit, the person who has the mere right of property therein shall not have 40

have the right of voting as the owner of such real property, at any such Election; but in such case such usufructuary (*usufruitier*) shall alone be entitled to vote at such Election upon such lands or tenements. 12 V. c. 27, s. 38, as amended 5 by 22 V. c. 82, s. 2.

REGISTRATION OF VOTERS AS REGARDS UPPER CANADA ONLY.

6. 1. The Clerk of each Municipality in Upper Canada shall, after the final revision and correction of the Assessment-Rolls, forthwith make a correct alphabetical list of all persons entitled to vote at the election of a Member of the Legislative Council and Assembly within such Municipality, according to the provisions of this chapter, together with the number of the lot or part of lot, or other description of the real property in respect of which each of them is so qualified; And in Cities and Towns, the Clerks shall make out a separate list for each Ward, of the names with a description of the property of all parties on the Assessment-Rolls who are entitled to vote in respect of real property situate within such Ward;—And if any Municipality is partly in one Electoral division and partly in another for the purposes of any Election, he shall make out one such alphabetical list for each of such Electoral divisions, containing the names, with such description of property, of all the parties on the Assessment-Rolls who are entitled to vote in respect of real property situate in each of such Electoral divisions respectively;
- In Upper Canada, lists of voters to be made from the Assessment-Rolls—and by whom.
- Municipalities extending into more than one Electoral Division.
2. The Clerk shall certify by oath or affirmation before the Judge of the County Court, or before any two Justices of the Peace, to the correctness of every list so by him made out, and shall keep such certified lists among the records of the Municipality, and shall deliver a duplicate original thereof certified by oath or affirmation as aforesaid, to the Clerk of the Peace of the County or Union of Counties within which the said Municipality lies;—And all such lists shall be completed and delivered as aforesaid, on or before the first day of October in each year;
- Clerk to certify by oath, to the correctness of such lists.
3. No person shall be admitted to vote at any Election of a Member to serve in the Legislative Council or Assembly, unless his name appears upon the list then last made and certified;—and no question of qualification shall be raised at any such Election, except to ascertain whether the party tendering his vote is the same party intended to be designated in the alphabetical list aforesaid;
- No person to vote at any election, unless his name appears on the lists.
4. Any Assessment-Roll or List of Voters shall be understood to be finally revised and corrected, when it has been so revised and corrected by the Court of Revision for the Municipality, or by the Judge of the County Court, in case of an appeal as provided in the Act respecting the Assessment of Property in Upper Canada, or when the time during which such
- Revision of list of voters by proper authority to be final;

And binding
on Commit-
tees, &c.

such appeal may be made has elapsed, and not before, and shall be binding on every Committee of the Legislative Council and Legislative Assembly respectively, appointed for the trial of any Petition complaining of an undue election or return of a Member to serve in the Legislative Council or Legislative 5 Assembly.

Proceedings,
when list is
shewn not to
be correct, &c.

7. If at any time before the issuing of the Writ to hold any Election for a Member to serve in the Legislative Council or Assembly, it is made to appear to the County Judge or acting Judge of the County Court in Upper Canada, that the Clerk of any City or other Local Municipality, in making the alphabetical list of persons entitled to vote as aforesaid or the duplicate original thereof, has wilfully or inadvertently omitted or inserted any name which ought not to be inserted or omitted, or otherwise altered or falsified the same,— 10 or that such alphabetical list or duplicate original is in point of fact not a correct list of all persons entitled to vote according to the Assessment-Roll as finally revised and corrected,—such Judge may require the Clerk of the City or other Local Municipality, or other officer having the custody of such 20 Assessment-Roll, to appear before him and produce such Roll and alphabetical list, and submit to such examination upon oath as may be required of him.

County Judge
to make alter-
ations and cor-
rections, &c.

8. At the time and place appointed for the appearance of such person, the Clerk of the Peace shall attend before 25 the County Judge with the duplicate alphabetical list in his possession; And the Judge may, on inspection of such Assessment-Roll and list, and with or without further proof, at his discretion, make such alterations and corrections in such lists as to him seem necessary and proper, in order that 30 the same may be a correct list of all persons entitled to vote according to the Assessment-Roll as finally revised and corrected, and according to the spirit and meaning of this chapter. 22 V. c. 82, s. 8.

REGISTRATION OF VOTERS AS REGARDS LOWER CANADA ONLY.

Duty of Asses-
sors in Lower
Canada.

9. The Assessors in Lower Canada shall ascertain 35 by the best means in their power, the owner and the tenant or occupant of all real property entered in the Assessment-Roll, and shall enter the names of such owner and tenant or occupant therein, distinguishing them respectively as the owner, tenant or occupant, as the case may be. 40

Assessors to
revise and cor-
rect Assess-
ment-Roll
every year,
&c., in certain
respects.

10. But it shall be the duty of Assessors in every incorporated City, and in every local Municipality in Lower Canada, in which City or Municipality Assessment-Rolls are not required to be or are not made annually, to revise and correct every 45 year, until the next general Assessment-Roll is made, the then existing Assessment-Roll so far as regards the names

names of the owners and tenants or occupants of all real property, entitled under the provisions of this Chapter to be entered on the list of voters at the Elections of Members of the Legislative Council or Assembly ; and such revision and correction shall be made annually at and during the same period of the year at and during which the original Assessment was made ; and every such revised and corrected Assessment-Roll shall be delivered to the Treasurer or Secretary-Treasurer of the Municipality, in the same manner and within the same delay as the original Assessment-Roll is required to be delivered.

At what time.

To whom to be delivered.

11. The Clerk or Treasurer or Secretary-Treasurer of every such City and of every such local Municipality, shall, immediately after the Assessment-Roll has been received by the Clerk, Treasurer or Secretary-Treasurer of the Municipality, make an Alphabetical List of the persons who appear by the Assessment-Roll to be qualified, under this Chapter, to vote at Elections of Members of the Legislative Council or Assembly, in respect of property mentioned in such Assessment-Roll, distinguishing such persons as appear qualified as owners from those qualified as tenants or occupants, and shewing the number of the lot or part of lot, or other description of the real property in respect of which they are so qualified ; and in every such incorporated City, the Clerk or Secretary-Treasurer shall make out for each Ward a separate List of the above kind, of all persons entitled to vote in respect of real property situate within such Ward ;

The Clerk of the Municipality to make list of persons qualified to vote, distinguishing tenants from owners, &c.

Separate lists for each Ward in Cities.

2. If any Municipality is partly in one Electoral Division and partly in another for the purposes of any such election, the Clerk or Secretary-Treasurer shall make out for each of such Electoral Divisions, one such Alphabetical List containing the names, with such description of property, of all persons on the Assessment-Roll who are entitled to vote in respect of real property situate in each of such Electoral Divisions respectively ;

Proceedings when a Municipality is partly in one Electoral Division and partly in another.

3. Such Clerk, Treasurer or Secretary-Treasurer shall certify by oath or affirmation, before any two Justices of the Peace, to the correctness of the List or Lists so made out by him, and he shall keep such certified Lists among the records of the Municipality, and shall deliver a duplicate thereof when finally revised and corrected, certified by oath or affirmation as aforesaid, to the Registrar of the County or Registration Division within which the Municipality lies ;

Clerk, &c., to certify on oath of the correctness of such list, &c.

Duplicate to the Registrar of the County.

4. And the Clerk, Treasurer or Secretary-Treasurer in any City or Municipality in which Assessment-Rolls are not made annually, shall make out in the same manner an Alphabetical List of the same kind from the Assessment-Roll as annually revised and corrected by the Assessors ;

List to be revised, &c., yearly.

Copy to be posted up, and where.

5. A copy of every such List shall be kept publicly posted up in the office of the said Clerk or Secretary-Treasurer for the information of all parties concerned, such copy being corrected by the said Clerk or Secretary-Treasurer by the original when finally revised as hereinafter provided, and again posted up as aforesaid. 5

Lists subject to revision, and by whom.

12. The List of Voters made in the manner hereinbefore prescribed for any Municipality in Lower Canada, (not including Cities,) shall be subject to revision and correction in the same manner and by the same authority by which the Assessment-Roll may by law be revised and corrected, and application may be made by parties desirous of having the same corrected, in the manner and during the period of time provided by law for making applications, for corrections in the Assessment-Roll ; 10 15

In places other than Cities.

In Cities.

2. And in Cities, such members of the City Council as shall be appointed by such Council for that purpose, (or if there be a Board established by law for revising the List or Lists of Municipal electors or voters, such Board,) shall be a Board for revising the List of Voters, and application may be made by parties desirous of having the same corrected, in the manner hereinafter mentioned during such time as shall be appointed by the City Council ; 20

Board may correct over-valuation, if it would give a vote to a party not otherwise entitled.

3. The said Board or other authority shall take cognizance of any complaint made in writing by one or more electors, to the effect that any property designated in such complaint has been overvalued in the Valuation-Roll, provided such over-valuation would have the effect of giving the right of voting to a person not otherwise entitled to vote : And the said Board or other authority shall determine such complaints in the manner, and with the formalities appointed with regard to the complaints referred to in the following section. 25 30

How persons deeming themselves aggrieved with regard to such lists, shall proceed.

13. If any person deems himself aggrieved either by the insertion or omission of his name in any such List, he shall, either by himself or his agent, give notice thereof in writing to the Clerk or Secretary-Treasurer of the City or Municipality, within the period aforesaid, stating generally in what manner, and for what reasons he holds himself aggrieved ; and the complaint shall be tried and determined by the said Board or authority at such time and place as it shall appoint, of which reasonable notice shall be given to the complainant and to the Assessor or Assessors who made the Roll ; 35 40

If any person entered on the list is objected to ; or any person is omitted who

2. If any person, being himself a Voter whose name is on the List, thinks that the name of any other person also entered thereon ought not to have been so entered because such other person is not duly qualified as a Voter,—or thinks that the name of any other person not entered thereon should be so entered because such 45 such

- such person is duly qualified as an elector, he may file a complaint to that effect with the Clerk or Secretary-Treasurer of the City or Municipality within the period aforesaid, stating his complaint and the grounds thereof, and the complaint shall be
- 5 tried and determined by the Board or authority aforesaid at such time and place as it shall appoint, of which reasonable notice shall be given to the complainant, and to the Assessor or Assessors who made the Assessment-Roll, and to the person
- 10 the entry of whose name on the List is objected to, if he resides within the limits of the City or Municipality, (and, if not, such notice shall be openly posted up in the office of the said Clerk or Secretary-Treasurer for the information of all concerned,) or to the person whose name is not entered on the said List, but ought to be entered thereon if the complaint be admitted ;
- 15 3. And at the time and place so appointed as aforesaid, or any other time and place to which the hearing may be adjourned, the said Board or authority shall, after hearing such of the parties notified as aforesaid as then and there appear, or without hearing any of them who fail so to appear, finally
- 20 determine the complaint and affirm or amend the said List by entering thereon or erasing therefrom the said names, as after such hearing they think right ;
4. The said Board or authority shall hear and determine any such complaint as aforesaid, and correct the List of Voters according to such determination, and may adjourn the hearing in any
- 25 case at pleasure, and may examine any party or any witness adduced by any party, or any documents or writings offered as evidence, and administer or cause any one of their number to administer an oath or affirmation to any party or to any witness
- 30 adduced before them, or summon any person resident in the City or Municipality to attend as a witness before them ;— And if any person being so summoned shall fail to attend at the time and place mentioned in the summons (being tendered compensation for his time at the rate of fifty cents a
- 35 day, such compensation to be paid by the party whom the said Board or authority condemns to the payment thereof,) he shall thereby incur a penalty of twenty dollars, to be recovered with costs, to the use of the City or Municipality, in any way in which penalties under By-laws can
- 40 be recovered ;
5. All the proceedings under this section shall be summary, and the Board or authority hearing any such complaint as aforesaid (whether in any City or in any other Municipality) shall not be bound by any technical rules of proceeding or
- 45 evidence, but shall proceed upon and determine such complaint to the best of their ability, in such manner as they deem most conducive to equity and the substantial merits of the case.

is alleged to be qualified.

Notice to parties.

Board after hearing parties, finally to determine, &c.

Proceedings of the Revising Board on any such complaint ; and their powers to decide, &c.

Evidence—Oaths.

Witnesses compellable to attend, &c.

Such proceedings to be summary, &c.

Appeal given from the Revising Board to the Superior or Circuit Court.

14. Any person who has filed any complaint to the Board or authority for revising the Lists of voters in any part of Lower Canada, or concerning whom a complaint has been filed, and who deems himself aggrieved by the decision of such Board or authority touching such complaint, may, within eight days after such decision has been given, appeal therefrom to the Superior or Circuit Court at its place of sitting in the Municipality or nearest thereto, by a petition setting forth briefly the grounds of appeal, and shall serve a copy of such petition on the Clerk or Secretary-Treasurer of the City or other Municipality, who shall give reasonable notice thereof to the Assessor and other parties concerned :

Judge to hear and determine on such appeal in a summary way.

2. Any Judge of the Superior Court shall have full power and authority to hear and determine such appeal in a summary manner either in term or vacation, at such time and in such way as he thinks best for ensuring justice to all parties, and may direct that any further notice be given to any party, if he thinks proper, and shall have the powers for summoning before him and examining on oath or affirmation, any party or witness and compelling the production of any document, paper or thing, and generally all other powers which are vested in the Superior or Circuit Court in relation to any matter pending before it, but shall not be bound to observe any form of proceeding, except such only as he shall deem necessary for doing substantial justice to all parties ;

His powers for that purpose.

His decision to be final.

3. The decision of such Judge shall be final and conclusive, and the Clerk or Secretary-Treasurer having custody of the List of voters to which it relates, shall correct the same, if any correction be ordered by such decision, immediately on receiving a copy thereof certified by the Clerk of the Court by which it has been given ;

Costs of appeal, how and against whom taxable.

4. The costs of any such appeal shall be in the discretion of the Judge, and shall be taxed by him at such sum and for and against such parties respectively as he thinks right ; and any party in whose favor any such costs are taxed, may recover them from the party against whom they are taxed, by execution in the manner in which costs awarded by any judgment of the Court may be recovered ;

As to evidence.

5. No evidence shall be received by the Judge on any such appeal, except such as he sees reasonable cause to think was adduced before the Board or authority to whom the complaint appealed from was made ; And the pendency of any such appeal shall not affect the validity of those parts of the lists of voters from which no appeal is made, but the same shall for all the purposes of this Chapter be deemed finally revised and corrected so soon as the delay allowed for appealing has expired : And no proceeding on such appeal shall be void for want of form.

Appeal not to affect parts of list not appealed from.

15. After any such List has been revised and finally corrected, it shall be restored to the Clerk or Secretary-Treasurer, who shall forthwith correct by it the copy posted up in his Office; and until another is in a future year made, revised and corrected in its stead, those persons only whose names are entered upon such List, as finally revised and corrected, shall be entitled to vote at any Election of a Member of the Legislative Council or Assembly for the City or Municipality for which it was made, or the Electoral Division of which such City or Municipality forms part.

List finally revised to be returned and posted up.

No one not upon it to vote.

16. The Clerk or Secretary-Treasurer of any City or Municipality as aforesaid, shall furnish to every Deputy-Returning Officer acting in such City or Municipality, or in any Ward or Division thereof, a true copy or true copies, certified by such Clerk or Secretary-Treasurer, of the List of Voters then last revised and corrected as aforesaid, or of so much thereof as relates to the locality for which such Deputy-Returning Officer is to act; and such Deputy-Returning Officer shall not receive the vote of any person as being a voter qualified by reason of his being entered on any Assessment-Roll, unless the name of such person is found upon the copy of the said List furnished to him.

Copies of lists to be furnished to Deputy-Returning Officers.

17. No-voting shall be taken, nor shall any Poll be held in any Municipality in which no List of voters has been made :

No voting where no list.

2. But if the Valuators appointed by the Governor, under the Municipal Law in force in Lower Canada neglect to make the valuation required by the said Law, the Governor shall, on the complaint of the chief Officer of the Municipal Council, or of the Registrar of the County, or of two proprietors duly qualified to vote in the said Municipality, appoint in their place other Valuators, who shall be required to make the said Valuation in the manner in which it ought to have been made by the Valuators whose duty it was to have made it, and they shall in this respect have all the same rights and powers to exercise, and all the same duties to perform, and shall be bound under the same penalties in case of failure or neglect on their part, and the provisions of the said Law shall apply to them in the same manner as to the first Valuators appointed by the Governor;—And the time to be allowed to the former Valuators as well as to those subsequently appointed by the Governor for making the said valuation, shall be twenty days from the day on which their appointment has been announced in the *Canada Gazette* ;

Proviso—for the case when Valuators appointed by the Governor, under the municipal laws, neglect to make the Valuation.

3. And if the Clerk, Treasurer or Secretary-Treasurer neglects to draw up the Alphabetical List as required by the eleventh section of this Chapter, the Governor, on the complaint of the chief Officer of the Municipal Council of the City or other Municipality, or on the complaint of the Registrar

If the Clerk, &c., of any Municipality neglects to draw up the alphabetical

Registrar

list required, Registrar of the County, or of two duly qualified voters of the
&c. said City or Municipality, shall appoint a Clerk *ad hoc* to
make the said Alphabetical List, and the said Clerk *ad hoc*
shall in that respect be vested with all the same rights and
powers, and shall have all the same duties to perform, and 5
under the same penalties in case of failure or neglect on his
part, as the Clerk of the Municipality himself, and the chief
Officer and the other Officers of the said Municipal Council (in
so far as it shall depend on each of them) shall be bound to
deliver up to the said Clerk *ad hoc* the said Valuation-Roll, 10
under the penalties imposed by the twentieth section of this
Chapter.

List of votes to be revised and corrected by Revisors. 18. The List of voters mentioned in the eleventh section of
this chapter, shall be considered finally revised and corrected 15
when it has been so revised and corrected by the authority or
the Board of Revisors mentioned in the twelfth and thirteenth
sections :

Proviso: if within a certain time it be shewn to a Judge that any such list has been tampered with, &c. 2. But if between the day of such final revision and cor-
rection, and any time before the issuing of a writ for the 20
election of a Member of the Legislative Council or Assem-
bly, it be shewn to any Judge of the Superior Court in
Lower Canada, that the Clerk or the Secretary-Treasurer
of a city or municipality has altered or falsified the said
list of voters as finally revised and corrected, or allowed the 25
same to be altered or falsified, the said Judge shall summon
the said Clerk or Secretary-Treasurer of the said city or muni-
cipality, or other officer in charge of the Assessment or Valua-
tion-Rolls, to appear before him and to produce the same,
together with the list of voters, and to undergo such an exami-
nation under oath as the Judge may require ; 30

Rolls and list to be produced before the Judge. 3. At the time and place appointed for the appearance of such
person, the Registrar shall appear before the Judge, bringing
with him the duplicate of the Alphabetical List : And after an
examination of the said Roll and List, and with or without fur- 35
ther proof as he shall see fit, the Judge shall make such altera-
tions and corrections in the said List and Duplicate thereof as
he considers necessary and proper, in order that the said List
and Duplicate may be in all respects similar to the List as
Judge to order corrections, if necessary. finally revised and corrected. 22 V. c. 82, s. 5,—*in the same
order, but further sub-divided.* 40

PROVISIONS RELATIVE TO REGISTRATION, AND APPLYING TO
THE WHOLE PROVINCE.

Copies of lists to be furnished on demand and payment of certain fees. 19. The Registrar of any County or Registration Division,
any Clerk of the Peace and any Clerk or Secretary-Treasurer
of any City or Municipality or part of any Municipality,
having the custody of the list of voters of any City or Muni- 45
cipality, or part of any Municipality or place, shall furnish a
certified

certified copy of such lists, then last revised and corrected, to any person who shall require such copy, on being paid for the same by such person at the rate of three cents for every ten voters whose names are on such list. 22 V. c. 82, s. 6.

- 5 **20.** If the Clerk, Treasurer or Secretary-Treasurer of any City or Municipality, neglects to make the Alphabetical List as required by the eleventh section of this chapter, or in making out any certified list of persons entitled to vote at any election of a member to serve in the Legislative
- 10 Council or Assembly, wilfully inserts or omits any name which ought not to have been inserted or omitted, or otherwise alters or falsifies the same so that it is not the correct list of all persons entitled to vote according to the Assessment-Roll (or in Lower Canada, to the proper list of voters) as finally revised and
- 15 corrected.—And if any Clerk, Secretary-Treasurer, Returning Officer, Deputy-Returning Officer, Registrar, Clerk of the Peace or any other person whose duty it is to deliver copies or have the custody of any certified list of voters as aforesaid, wilfully makes any alteration, omission or insertion, or in any
- 20 way falsifies any such certified list or copy,—every such person shall be deemed guilty of felony, and being convicted thereof shall be liable at the discretion of the Court, to be imprisoned at hard labour in the Provincial Penitentiary, for any term not exceeding seven years, nor less than two
- 25 years, or to be imprisoned in any other place of confinement for any term less than two years, or to suffer such other punishment by fine or imprisonment, or both, as the Court shall award; and it shall not in any indictment for any such offence be necessary to allege that the article in respect of
- 30 which the offence is committed, is the property of any person, or that the same is of any value. 22 V. c. 82, s. 7.

Clerks, &c., wilfully falsifying or altering lists of voters to be guilty of Felony.

Punishment.

Certain allegations not requisite in indictment.

RETURNING OFFICERS OF MEMBERS OF THE LEGISLATIVE
ASSEMBLY.

Lower Canada.

21. In Lower Canada, to which alone this Section applies—

1. The Sheriffs for the several Districts of that part of the Province, shall be *ex officio* Returning Officers of Members of the
- 35 Legislative Assembly for the respective Cities or Towns over which their authority as such Sheriffs extends; And in case there are two or more persons appointed to perform the office of Sheriff for any one of the said Districts, then the Writ of Election shall be directed to one of them, and the person to
- 40 whom the Writ of Election is directed, shall alone act as such Returning Officer: And the Registrars of deeds for the several Counties in Lower Canada, shall be *ex officio* Returning Officers for the respective Counties over which their authority as such

In Lower Canada Sheriffs to be Returning-Officers for the Cities and Towns.

If there be more than one person in the office.

And the Registrars of Deeds for the Counties.

Registrars

And if there be more than one Registrar in a County. Registrars extends : and in case there are two or more Registrars in any of the said Counties, according to the divisions made for registry purposes, then the Writ of Election shall be directed to any one of such Registrars, and the Registrar to whom the Writ of Election is directed shall alone act as such Returning Officer ; 12 V. c. 27, s. 2. 5

Certain Registrars to be *ex officio* Returning Officers. 2. But if in any County or Union of Counties in Lower Canada forming an Electoral Division, there is any place at which a Registrar of Deeds is directed to keep his office, such Registrar shall be *ex officio* the Returning Officer for such County or Union of Counties ; And if in any such County or Union of Counties there are two or more places as aforesaid, then the Writ of Election may be directed to any one of the Registrars directed to keep their offices in such County or Union of Counties, and the Registrar to whom the same has been directed, shall alone act as Returning Officer. 10 15

In certain cases, Governor may appoint a Returning officer. 3. And for any Electoral Division in Lower Canada, in which there is no person authorized to act *ex officio* as Returning Officer at any Election of a Member for the Legislative Assembly, or when the person who would otherwise be authorized so to act is disqualified or otherwise prevented from acting in that capacity, the Governor may appoint a proper person to be such Returning Officer. 16 V. c. 152, s. 8. 20

UPPER CANADA.

22. Subject to the provision hereinafter made as to Counties divided into Ridings— 25

In Upper Canada Sheriffs to be Returning Officers for Counties, Union of Counties and Cities, &c. 1. The High Sheriffs for the time being of the several Counties and Unions of Counties for judicial purposes in Upper Canada, shall be *ex officio* Returning Officers for the Counties and Unions of Counties for purposes of Representation in the Legislative Assembly, over which or over any County in which, their authority as such Sheriffs extends, and in which they respectively reside, and also for the respective Cities and Towns sending Members to the said Assembly and lying within the local limits of such Counties or Unions of Counties ; And for the several other Counties or Unions of Counties for the purpose of Representation in the said Assembly, for which no Sheriff is under the foregoing provisions *ex officio* the Returning Officer, the Registrars of Deeds for the time being for such Counties or Unions of Counties, or for any of the Counties included in such Unions of Counties, shall be *ex officio* Returning Officers : 30 35 40

And if no Sheriffs, the Registrar of Deeds.

Proviso as to the County of Peel, &c. 2. So long as the County of Peel remains united for judicial purposes to the County of York, the Sheriff of that County or of the Union of which it is a member, shall be *ex officio* Returning Officer 40

Officer for the County of Peel as well as for the County of York and the City of Toronto; 14, 15 V. c. 108, s. 2.

3. And if in any case there is more than one person who may under the foregoing provisions be *ex officio* Returning Officer for any place, then the Writ of Election may be directed to either of them, and the person to whom it is directed shall alone act as such Returning Officer; and if in any case it happens that Writs of Election issue at the same time, or so nearly at the same time that the one is not return- able before the other or others issue, for several places for which the same person would, under the foregoing provisions, be *ex officio* Returning Officer, then only one of such Writs shall be directed to such person, and the other or others to such other person or persons, qualified in the manner provided by the 25th section of this Chapter, as the Governor shall appoint to be the Returning Officer or Officers; 14, 15 V. c. 108, s. 2--*part*.

If there is more than one person who may act as Returning-Officer, Writ may be directed to either, but one alone to act.

4. In each of the Counties in Upper Canada which are divided into Ridings, the High Sheriff or Registrar of Deeds, who would under the preceding provisions of this section be the Returning Officer for such County, shall be the Returning Officer for the Riding thereof first named in Chapter two of these *Consolidated Statutes*: and where there is a High Sheriff who is Returning Officer for the Riding first named as aforesaid, the Registrar of Deeds for the County shall be *ex officio* the Returning Officer for the Riding secondly named; subject always to the preceding provisions of this Section;

Provision with regard to Counties in Upper Canada divided into Ridings.

5. Provided always, that the High Sheriff of the United Counties of Leeds and Grenville shall be *ex officio* Returning Officer for the North Riding of Leeds and Grenville,—the Registrar of Deeds for the County of Leeds shall be *ex officio* Returning Officer for the South Riding of Leeds,—and the Registrar of Deeds for the County of Grenville shall be *ex officio* Returning Officer for the South Riding of Grenville. 16 V. c. 152, s. 7.

Proviso as to Leeds and Grenville.

THE WHOLE PROVINCE.

Returning Officers of Members of the Legislative Council.

23. The Governor shall appoint the Returning Officers at Elections of Members of the Legislative Council from among those persons who would be Returning Officers at Elections of Members of the Legislative Assembly for places within the Electoral Division for which the Election of a Member of the Legislative Council is to be held. 19, 20 V. c. 140, s. 10.

Governor to appoint Returning Officers for Legislative Council from among certain persons.

Provisions

Provisions as to Returning Officers, applicable to both Houses.

In case no one can *ex officio* be Returning Officer for any place, &c., Governor may appoint a person, &c.

24. If in any case it happens, either in Upper or in Lower Canada, that there is no person, who, under the provisions of this chapter, can be *ex officio* Returning Officer for any place for which an Election is to be held, or the person who would or might be such Returning Officer is absent from the Province, or incapacitated from sickness or otherwise from performing the duties of Returning Officer, then the Governor may appoint any person qualified under the preceding sections of this chapter to be Returning Officer for such place. 14, 15 V. c. 108, s. 3. 5 10

Qualification of any person so appointed Returning Officer, &c.

25. No person, other than a Sheriff or Registrar as aforesaid, shall be so appointed or act as Returning Officer for any County, Riding, City or Town, or other Electoral Division, in this Province, unless at the time of his appointment such person is an elector for such County, Riding, City or Town, or other Electoral Division, then duly and legally qualified to vote at the election of a Member for the same, nor unless he has continually resided therein during at least twelve months immediately preceding his appointment : 15

Penalty for acting without qualification.

2. And any person who being so appointed, acts as Returning Officer for any one of the said Counties, Ridings, Cities or Towns, or any other Electoral Division, without possessing the qualifications hereinbefore required, shall thereby incur a penalty of fifty pounds. 12 V. c. 27, s. 5—*the Proviso.* 20

Certain parties excluded from serving as Returning Officers.

26. None of the persons hereinafter designated in this section, shall in any case be appointed or act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say : 25

- The parties.
- First.* The Members of the Executive Council ;
- Second.* The Members of the Legislative Council ; 30
- Third.* The Members of the Legislative Assembly ;
- Fourth.* Any Minister, Priest, Ecclesiastic, or Teacher, under any form or profession of religious faith or worship;
- Fifth.* The Judges of the Courts of Superior Civil and Criminal Jurisdiction, as well as the Judges of Circuit Court and County Courts ; 35
- Sixth.* All persons who have served in the Parliament of this Province as Members of the Legislative Assembly or of the Legislative Council, in the session next immediately preceding the election in question, or in the then present session if the election takes place during a session of the said Parliament ; 40

2. And if any one of the persons above mentioned in this section is appointed to act and acts as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall thereby incur a penalty of twenty-five pounds. Penalty on parties excluded, acting as Returning Officers.

5 12 V. c. 27, s. 6.

27. None of the persons hereinafter mentioned in this section, unless they are Sheriffs or Registrars, or Town Clerks or Assessors, shall be obliged to act as Returning Officer, or Deputy Returning Officer, or as Election Clerk or Poll Clerk, Certain parties exempt from serving.

10 that is to say :

First. Physicians and Surgeons ;

Second. Millers ;

Third. Post-Masters ;

Fourth. Persons being sixty years of age, or upwards ;

15 *Fifth.* Persons who have previously served as Returning Officers. 12 V. c. 27, s. 7.

28. Every Sheriff or Registrar, and every other person having the qualifications required by this chapter for acting as Returning Officer, who refuses to perform the duty of Returning Officer at any such Election as aforesaid, after having received the Writ of Election, shall for such refusal incur a penalty of fifty pounds ; unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, has in fact claimed such exemption within two days next after the receipt of such Writ of Election. Penalty on parties not exempt, refusing to serve as Returning Officers.

20
25
12 V. c. 27, s. 8.

Issue of the Writ.

29. Whenever a Writ of Election is issued for the election of a Member to serve in the Legislative Assembly or in the Legislative Council of this Province, the same shall be addressed and directed to the Sheriff or Registrar who is *ex officio* the Returning Officer for the Electoral Division, or to the person appointed by the Governor if such appointment is made according to the requirements of this Act. Writs of election to be addressed to the Returning Officers.

30

Proviso as to Writs to certain Counties.

30. For and notwithstanding any thing to the contrary contained in the Act of the Parliament of the United Kingdom, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, any Writ issued for the election of a Member to serve in the Legislative Assembly of this Province for the County of Gaspé, or for the As to return of Writs for the Counties of Saguenay and Gaspé.

County of Saguenay, may be made returnable at any time within ninety days from the day on which the same shall bear date. 14, 15 V. c. 87, s. 1. See *Cap. I, s. 8, as to Legislative Council.*

PROCEEDINGS ON THE RECEIPT OF THE WRIT.

- Duties of Returning Officers.** **31.** Each Returning Officer shall, on receiving the Writ of Election, forthwith endorse thereon the date of its reception : 5
- Proclamation, its form and contents.** 2. Within eight days next after the day of such reception, he shall, by a Proclamation under his hand, issued in the English language in Upper Canada, and in the English and French languages in Lower Canada, and in the *form A* of the Schedule annexed to this chapter, fix the place, day and hour, at 10 which he will proceed to hold the Election ;
- Posting up of Proclamation.** 3. He shall cause the said Proclamation to be posted up, in the manner hereinafter prescribed, at least eight days before the day which by such Proclamation he has fixed for holding the said Election, which day so fixed shall be called the Nomination Day ; 15
- Place of election.** 4. The place to be so fixed by the Returning Officer, shall be in the public place most central and most convenient for the great body of the Electors in the County, Riding, City or Town or other Electoral Division for which he is acting as such Returning Officer, and the hour to be fixed shall be between eleven 20 o'clock in the forenoon and two o'clock in the afternoon, of the day so by him fixed for opening such Election as aforesaid ; See also 19, 20 V. c. 140, s. 11.
- Hour.**
- Polling days.** 5. In and by the Proclamation aforesaid, the Returning Officer 25 shall also fix the day on which, in case a Poll be demanded and granted as hereinafter provided, such Poll shall be opened, in conformity to this chapter, in each Parish, Township or Union of Townships or Ward, or part of a Parish or Township, (as the case may be,) for taking and recording the Votes of the 30 Electors according to law ;
- Place of posting up Proclamation in Cities and Towns.** 6. If the Election be for a City or Town, he shall cause the said Proclamation to be posted up, in Upper Canada, at the City or Town Hall, and in some public place in each Ward of such City or Town, and, in Lower Canada, at the door of at least 35 one Church or Chapel, or other place of Public Worship, and in some public place in each Ward of such City or Town ;
- In Counties in Upper Canada.** 7. If the Election be for a County or Riding, or for an Electoral Division for the Legislative Council, he shall cause the said Proclamation to be posted up, in Upper Canada, at the Town 40 Hall where there is one, and in at least one other public place in each Township or Union of Townships in the Electoral Division in which the Election is to be held, and, in Lower Canada,

Canada, at the door of at least one Church or Chapel, or other place of Public Worship, where there is one, and in at least one other public place in each Parish, Township or extra-Parochial place in such Electoral Division ; And if only part of any Parish, Township or extra-Parochial place in Lower Canada is within such Electoral Division, he shall cause the said Proclamation to be posted up in such part only, in the manner above prescribed ;

In Counties in Lower Canada.

8. Neither the day of nomination nor that of the posting of such proclamation, shall be included within the said eight days ; 12 V. c. 27, s. 9.

How the eight days' notice shall be reckoned.

9. The Proclamation issued by a Returning Officer of the County of Gaspé, or of the County of Saguenay, fixing the place, day and hour at which he will proceed to hold the election, shall be posted up at least twenty days before the day which by such Proclamation he has fixed for holding such election ; 14, 15 V. c. 87, s. 2, *part*.

Proviso as to the Counties of Gaspé and Saguenay.

10. Any Returning Officer refusing or neglecting to cause such Proclamation to be posted up as above required, shall, for such neglect or refusal, incur a penalty of twenty-five pounds currency. 12 V. c. 27, s. 9, and 14, 15 V. c. 87, s. 2.

Penalty on Returning-Officer neglecting to cause Proclamation to be posted up.

32. Each Returning Officer shall, before the day so by him fixed for opening the Election, take and subscribe before a Justice of the Peace for the County or District in which he resides, the Oath number one, in the Schedule to this chapter ; and such Justice of the Peace shall, (under a penalty of ten pounds currency, in case of refusal,) deliver to him, under the hand of such Justice, and in the form B of the said Schedule, a certificate of his having taken the said Oath, which, together with the said certificate, shall be annexed to his Return to the Writ of Election ; And any Returning Officer who refuses or neglects either to take and subscribe the said Oath, or to annex it with the said certificate to his Return, shall, for such refusal or neglect, incur a penalty of ten pounds. 12 V. c. 27, s. 10.

Returning Officer to take an oath of office.

Justice administering it to grant a certificate.

Penalty for refusing to take the oath.

ELECTION CLERKS.

33. Each Returning Officer shall, before the Nomination Day, appoint by a Commission under his hand, in the form of the said Schedule, a fit person to be his Election Clerk, and to assist him in the performance of his duties as Returning Officer :

Returning Officer to appoint an Election Clerk

2. Such Election Clerk shall take and subscribe, either before some Justice of the Peace for the County or District in which he resides, or before the said Returning Officer, the Oath number two, in the said Schedule ; and of his having taken such Oath, there shall be delivered to him by the person before whom

Election Clerk to take an oath of office.

A certificate to be given.

whom he has been sworn, and under his hand, a certificate in the form D of the said Schedule ;

Penalty on persons refusing to perform the duty, &c.

3. Any person so appointed as Election Clerk, who refuses to accept the said Office, or who, having accepted it, refuses or neglects to take and subscribe the said Oath hereby above required of him, or to perform the duties of Election Clerk, shall, for such refusal or neglect, incur a penalty of ten pounds ;

Proviso—another Election Clerk may be appointed in certain cases.

4. The Returning Officer may, either before or after the Nomination Day, appoint in the manner above mentioned, another person as his Election Clerk, whensoever the case requires, either by reason of the death, illness or absence of any Election Clerk previously appointed, or of his refusal or neglect to act, or otherwise ; and such new Election Clerk so appointed shall perform all the duties, and comply with all the obligations of his Office, under the same penalty in case of refusal or neglect on his part, as is hereinbefore imposed in like cases ;

Duty of Election Clerk in case the Returning Officer is unable to perform his duty.

5. Whenever any Returning Officer becomes unable to perform the duties of his Office, whether by death, illness, absence or otherwise, the Election Clerk, so by him appointed as aforesaid shall, under the same penalties in case of refusal or neglect on his part as are hereinabove imposed in like cases on the Returning Officer, act as and shall be Returning Officer for the said Election, and shall perform all the duties and obligations of that Office, in like manner as if he had been duly appointed Returning Officer, and without being required to possess any other qualification, or to take any new Oath for that purpose ; and in any such case the Election Clerk shall annex to his Return to the Writ of Election the said certificate of the Oath he has taken as Election Clerk, and also the Oath itself.

Certificate to be annexed to the Return in such case.

12 V. c. 27, s. 11.

PROCEEDINGS ON THE NOMINATION DAY.

Proceedings of the Returning officer on the day of election.

34. Every Returning Officer shall, at the time and place by him fixed as aforesaid for opening the Election, proceed to the Hustings, (which shall be held in the open air, at such place as that all the Electors may have free access thereto,) and shall make, or cause to be made, in the English and French languages in Lower Canada, and in the English language in Upper Canada, in the presence of the Electors there assembled at the Hustings, a Proclamation in the Form E of the said Schedule, and shall then and there read, or cause to be read publicly, in the English language in Upper Canada, and in the English and French languages in Lower Canada, the Writ of Election, and his Commission as Returning Officer when he has been appointed Returning Officer by Special Commission for such purpose, and shall then require the Electors there present to name the person or persons whom they wish to choose

Proclamation, reading of Commission, &c.

choose at the said Election to represent them in the said Legislative Assembly or in the Legislative Council in obedience to the said Writ of Election :

2. If the Candidates or their respective agents, and the Electors If no Poll be demanded.
 5 then and there present, upon a show of hands, agree in the choice to be so made of the person or persons to represent the said Electors as aforesaid, and if, after such show of hands, a Poll be not demanded, in the manner hereinafter mentioned, the Returning Officer shall forthwith close the Election, and
 10 shall then and there openly proclaim the person or persons so chosen, to be duly elected a Member or Members to represent in the Legislative Assembly or in the Legislative Council, the Electoral Division for which such Election is had ;

3. But if a Poll be demanded (and any Elector present, or any If a Poll be demanded.
 15 Candidate either in person or by his agent, may demand a Poll,) then the Returning Officer shall grant such Poll for taking and recording the Votes of the Electors in the manner prescribed in this Chapter ; and when at any such Election a Poll is demanded as aforesaid, if the Returning Officer Penalty for not granting a Poll if demanded.
 20 refuses or neglects to grant the same, the Election shall be *ipso facto* null, and such Returning Officer shall, for such refusal or neglect, incur a penalty of two hundred pounds currency. 12 V. c. 27. s. 12.

AGENTS FOR ABSENT CANDIDATES.

35. At any Election as aforesaid, whether at the Hustings Who may act as Agent of any candidate.
 25 on the day of the opening or of the closing of the Election, or at the Polling places opened and kept for such Election, in the absence of any person authorized in writing to act as Agent for any absent Candidate, any Elector in the interest of such Candidate, may at any time during the Election, declare him-
 30 self to be and may act as the Agent of any such Candidate without producing any special authority in writing for that purpose ; and

2. Any person who, at any time either during the Election or No paid Agent, Attorney, Counsel, &c., of any Candidate to vote at the election.
 35 before the Election, is employed at such Election or in reference thereto, or for the purpose of forwarding the same, by any Candidate or by any person whomsoever, as Counsel, Agent, Attorney or Clerk, at any polling place at such Election, or in any other capacity whatever, and who has received or expects to receive, either before, during or after the said Election,
 40 from any Candidate or from any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any promise, pledge or security whatsoever, for any sum of money, fee, office, place or employment, shall be incompetent to vote at such Election, and
 45 his vote, if given, shall be null and void, and such person shall further incur, for having so voted, a penalty of Twenty-five pounds. 12 V. c. 27, s. 29. *And see* 22 V. c. 82, s. 3. Penalty for voting.

CANDIDATE'S

CANDIDATE'S QUALIFICATION AND DECLARATION, &c.

Recital.

Union Act
cited, section
28.

36. And whereas by the twenty-eighth section of the Act of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," it is enacted, "That every Candidate at such Election, (*meaning any Election of a Member of the Legislative Assembly,*) before he shall be capable of being elected, shall, if required by any other Candidate, or by any Elector, or by the Returning Officer, make the following declaration :

5

"I, A. B., do declare and testify that I am duly seized at law or in equity as of feehold, for my own use and benefit, of lands or tenements held in free and common socage, (or duly seized or possessed for my own use and benefit of lands or tenements held in *feif*, or in *roture*, as the case may be) in the Province of Canada, of the value of Five Hundred Pounds, of sterling money of Great Britain, over and above all rents, mortgages, charges and incumbrances charged upon or due and payable out of or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof, for the purpose of qualifying or enabling me to be returned a Member of the Legislative Assembly of the Province of Canada."

Candidate to
add to his de-
claration un-
der the said
section a des-
cription of the
property
forming his
qualification.

Therefore, every such Candidate, when personally required as aforesaid to make the said declaration, shall, before he shall be elected, give and insert at the foot of the declaration hereinabove required of him, a correct description of the lands or tenements on which he claims to be qualified according to law to be so elected, and of their local situation, by adding immediately after the word "Canada," (which is the last word in the said declaration) the following words : "And I further declare that the lands or tenements aforesaid consist of, &c." (*here insert the description above required*) ;

10

15

Form of such
addition.Wilfully false
statement in
such descrip-
tion to be a
misdemeanor.

And any person who, in giving the description of such lands or tenements as above required, knowingly and wilfully makes any false statement relative to the situation, position, extent or bounds of such lands or tenements, shall be deemed guilty of a misdemeanor, and shall, on being duly convicted thereof, incur the same pains and penalties as may by law be inflicted on persons guilty of wilful and corrupt perjury. 12 V. c. 27, s. 48.

20

25

Declaration
may be volun-
tarily made
beforehand.

37. Any person may, with a view to his becoming a Candidate at any Election, either of a Member of the Legislative Assembly or of the Legislative Council, make at any time, as well before as after the date of the Writ of Election, voluntarily and without waiting to be required so to do, the declaration as is mentioned in the next preceding section if the Election be that of a Member of the Legislative Assembly, or the declaration required by the first chapter of these *Consolidated Statutes*, if the Election be that of a Member of the Legislative Council ;

30

35

And

And any such declaration so made voluntarily as aforesaid, shall to all intents and purposes have the same force and effect as if it had been made after his being thereunto required according to law ;

- 5 2. No such declaration, when any Candidate is required to make the same by any other Candidate, or by any Elector, or by the Returning Officer, in the manner hereinabove provided, need be so made by such Candidate, unless the same has been personally required of him on or before the day of nomination of
 10 Candidates at such Election, and before a Poll has been granted, and unless he has not already made the same voluntarily as he is hereinabove allowed to do, and not in any other case : and when any such declaration has been so required according to law, the Candidate called upon to make the same
 15 may do so at any time during such Election ; Provided it be made before the Proclamation to be made by the Returning Officer at the closing of the Election, of the person or persons elected at such Election ;

In what cases only a Candidate may be called upon to make same.

When it may be made, if required.

3. When such declaration is so made by any Candidate, whether voluntarily or in consequence of his being thereunto so required as aforesaid, it shall be made either before the Returning Officer or before some Justice of the Peace, or the Mayor, or one of the Aldermen of some City or Town in this Province, and such Returning Officer, Justice of the Peace,
 20 Mayor or Alderman shall take the same and shall attest it by writing at the foot thereof, the words " taken and acknowledged before me," or other words to the like effect, and by dating and signing such attestation ;

Before whom it may be made, and how attested.

4. Any Candidate who delivers or causes to be delivered such
 30 declaration so made and attested to the Returning Officer at any time before the Proclamation made by him at the closing of the Election as above mentioned in this section, shall be deemed to have complied with the law to all intents and purposes as regards such declaration ; and any Returning Officer
 35 thereunto so required, shall be bound (under a penalty of fifty pounds, in case of refusal) to give forthwith, after such declaration is delivered to him, to the Candidate or other person who has delivered the same, an acknowledgment under his hand of the delivery of such declaration ;

Returning Officer to certify the delivery to him of the declaration, under a penalty of £50.

5. And every such declaration shall, for all the purposes of such Election, be deemed to have been made on the day on which it has been so delivered to the Returning Officer by the Candidate or by any person on his behalf, whatever be the date of its receipt or of its attestation, and the possession of
 40 such declaration shall be *prima facie* evidence of the possessor's having been authorized by the Candidate to deliver it to the Returning Officer. 12 V. c. 27, s. 49,—and 19, 20 V. c. 140, ss. 13, 14.

What shall be deemed the date of any such declaration, and who may deliver it to the Returning Officer.

PROCEEDINGS WHEN A POLL IS GRANTED.

- Proceedings when a Poll is demanded. **38.** When at any Election as aforesaid, a Poll has been demanded and granted, such Poll shall be opened and kept separately in each Parish, Township or Union of Townships, or Ward, or part of a Parish or Township, (as the case may be,) which lies within the Electoral Division for which the Election is held ;—that is to say : in Upper Canada-- 5
- Where such Poll shall be held in U. C. 2. In Townships forming part of Counties and Ridings and not divided into Wards, in some building at or near the place where the last Township Meeting was held ; and in Cities and Towns, at the most convenient place in each Ward ; 12 V. c. 27, s. 13, *part.* 10
- In Townships divided into Wards, in U. C. 3. In Townships divided into Wards, (and every union of Townships divided into Wards, shall be deemed a Township divided into Wards within the meaning of this chapter,) such Poll shall be held at the Town Hall in which the Meetings of the Municipal Council of the Township are held, if there be any such Town Hall, and if there be none, then at the place where the Municipal Council of the Township held its first meeting in the year in which such Poll is to be held, or if the said Council has not met during such year, then at the place where it held its last meeting during the next preceding year ; 15 20
- Deputy R. O. to appoint the place in certain cases, in U. C. 4. If in any case it happens that there is no place at which, under the provisions of this chapter, the Poll ought to be held, then the Deputy Returning officer shall himself appoint the place, selecting such as he deems most central and convenient for the majority of the Electors ; 14, 15 V. c. 108, s. 1, *except proviso.* 25
- In incorporated Villages and Towns, in U. C. 5. A separate Poll shall be held for each Incorporated Village or Incorporated Town not divided into Wards and for the purpose of Representation lying within the Electoral Division for which the election is held, and a separate Poll shall also be held for each Ward in every Incorporated Town lying within such Electoral Division for the purpose of Representation and divided into Wards ; and such Village or Town shall not be held for the purpose of Representation to be part of any Township within the local limits whereof it wholly or partly lies ; and the Returning Officer shall appoint a Deputy Returning Officer for each such Village, Town or Ward as aforesaid ; 30 35
- Special provisions as to such Villages and Towns. 6. But nothing in this Section shall be construed to affect the qualification of Voters in any such Incorporated Village or Town, save only that in Towns divided into Wards, they shall vote respectively in that Ward in which the property on which they vote is wholly or partly situate, and not in any other ; 16 V. c. 152, s. 6, *except the first proviso.* 40 45
- This section not to affect qualification of voters. Exception. 7.

7. In Lower Canada, such Poll shall be opened and kept at the most public and convenient place for the body of the Electors in the Parish, Township or Ward, or part of a Parish or Township, either in the open air or in some building close to the public highway ;

8. But the building in which the Poll is held, whether in Upper or Lower Canada, shall not be a Tavern or place of public entertainment, and there shall be free access thereto to every Elector. *Part of 12, V. c. 27. s. 13. except the paragraphs otherwise marked.*

39. At each Election the Electors shall vote at the place so opened and kept in the Parish or Township or Union of Townships, or Ward, or part of a Parish or Township within the limits whereof the property shall lie, upon which they shall respectively claim the right of voting at such Election, and not at any other Polling place : and if any Elector votes at any other Polling place, he shall thereby incur a penalty of ten pounds. 12 V. c. 27. s. 13—*remainder.*

40. Three Polling places shall be appointed by the Returning Officer, in each of the following Wards of the City of Montreal :— the Saint Anne's Ward, the Saint Antoine Ward, the Saint Lawrence Ward, the Saint Louis Ward, the Saint James Ward, and the Saint Mary's Ward : and in each of the following Wards of the City of Quebec, — the Saint Roch's Ward and the Saint John's Ward ; and three Deputy Returning Officers shall be appointed for each of the said Wards by the Returning Officer for the City in which they respectively lie, and shall have like powers and duties with the other Deputy Returning Officers to be appointed under this Chapter ; and the Polling places in each of the said Wards shall be selected by the Returning Officer, in such manner as in his judgment will afford the greatest facility to the Electors residing in different parts of the Ward to give their votes, without going further than is necessary from their respective places of residence ; but each Elector entitled to vote in any Ward may vote at any one of the Polling places in such Ward :

2. And the said Cities of Quebec and Montreal shall, for all the purposes of this Chapter, remain divided into Wards, and such Wards shall remain bounded as they were on the 30th day of May 1849, notwithstanding any change thereafter made in the division of either of the said Cities into Wards, or in the boundaries of such Wards, for municipal or other purposes, unless by the Act establishing such new division or boundaries, it be expressly provided that the same shall be used for the purposes of this Chapter and of the Election of Members of the Legislative Council and Assembly. 12 V. c. 27, s. 14.

Interpretation
of the word
"Parish" as
regards Lower
Canada.

41. For the purpose of voting under the provisions of this Chapter, in Lower Canada only, the word "Parish" shall be understood wherever it occurs in this Chapter, to include any tract of land which at the date of the Writ of Election is generally reputed to form a Parish, whether such tract has or has not been wholly or in part originally erected into a Parish, either by the Civil authorities or by a Decree of the Ecclesiastical authorities ;—And when in any County there is an extra-parochial place, every Elector qualified to vote at the Election upon property lying within the limits of such extra-parochial place, may vote at that one of the Polling places in the said County which appears to him most convenient :—And when only part of any Parish or any tract of land reputed to be a Parish within the meaning of this section, or of any Township, lies within the County, no Polling place shall be opened within such part, unless there be therein at least one hundred proprietors of lands or tenements, qualified to vote at such Election ; and when any such part is not entitled to have a Polling place, or where no Polling place shall be therein opened and kept in conformity to this chapter, any Elector qualified to vote at the Election, upon any property lying within such part, may vote at such Election at that one of the Polling places opened and kept in the said County, which appears to him most convenient. 12 V. c. 27, s. 15.

As to extra-
parochial
places.

When part
only of a Pa-
rish lies with-
in any Coun-
ty.

Day of open-
ing the Poll
to be proclaim-
ed from the
hustings.

42. When at any Election for any Electoral Division, a Poll has been granted, the Returning Officer, immediately after having granted such Poll, and before adjourning his proceedings, shall publicly proclaim from the hustings the day previously fixed in and by his first proclamation, and the place at which the Poll shall be so opened separately in each Parish, Township or union of Townships, or Ward, or part of a Parish or Township (as the case may be) for the purpose of then and there taking and recording the votes of the Electors according to law :

Delay between
election and
Poll.

2. The Returning Officer shall allow at least six days and not more than ten to elapse between the day so by him fixed for opening the Election, and the day by him fixed for opening the Poll, at separate places as aforesaid ; 12 V. c. 27, s. 16—*part.*

Except in the
Counties of
Gaspé and
Saguenay.

3. Except only that in the County of Gaspé, and in the County of Saguenay, there shall be at least fifteen days, and not more than thirty days, between the day so fixed by the Returning Officer for opening the election as aforesaid, and the day so fixed by him for opening the Poll in the said Counties respectively ; 14, 15 V. c. 87, s. 2—*part.*

Adjournment
of the election,
until, &c.,
closing day.

4. After having so proclaimed from the hustings the day and the places fixed for opening such Poll as aforesaid (which places shall be then by him specially designated and described), the Returning Officer shall adjourn his proceedings in such Election

Election to another certain day, which shall be called the Day of the Closing of the Election, and which shall be one of the ten days next following that which he has previously fixed as aforesaid for opening the said Poll; 12 V. c. 27, s. 16—
 5 remainder.

5. Except only that in the County of Gaspé, and in the County of Saguenay, the delay between the closing of the Polls and the day of the closing of the Election on which the result of the polling shall be announced by the Returning Officer, may extend to but shall not exceed thirty days. 14, 15 V. c. 87, s. 2. Except Gaspé and Saguenay.

43. The day to be fixed and proclaimed by the Returning Officer for opening the Poll at separate places as aforesaid, shall not be a Sunday, New Year's day, the Epiphany, the Annunciation, Good Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's day, All Saints' day, the Conception, or Christmas day : Poll not to be held on Sundays or certain holidays.

2. Such day shall be the same for each Parish, Township or union of Townships, or Ward, or part of a Parish or Township (or as the case may be), and the Poll shall be opened and held on that day and the next following lawful day only, so that there be two days polling in each Parish, Township or union of Townships, Ward, or part of a Parish or Township, (as the case may be); Polling days to be the same for each division of the County, City, &c.

3. Such two Polling days shall be two consecutive days, unless one of such days be a Sunday or one of the holy-days hereinbefore mentioned, in which case such Poll shall be opened and held on the next following day, in such manner always that there shall be in each Parish, Township or union of Townships, Ward, or part of a Parish or Township, (as the case may be), two days of polling for taking and recording the votes of the Electors according to law ; And to be two in number, and consecutive days. Exception.

4. During such two days of polling, the voting shall commence at Nine o'clock in the forenoon, and shall finish at Five in the afternoon of each of the said days. 12 V. c. 27, s. 17. Hours of voting.

APPOINTMENT OF DEPUTY RETURNING OFFICERS.

44. For the purpose of taking the votes at any such Election, the Returning Officer shall, by a Commission under his hand and in the form F of the said Schedule, appoint a Deputy Returning Officer for each Parish, Township or Union of Townships, or Ward, or part of a Parish or Township, (as the case may be), in which a Polling place is to be opened and kept, three Deputy Returning Officers being appointed for each of certain Wards in the Cities of Montreal and Quebec as hereinbefore provided : Deputy Returning Officers to be appointed to hold the Polls.

Their oath of office, &c.

2. Each Deputy Returning Officer shall, before acting as such, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, the Oath number Three in the said Schedule, of the taking of which Oath there shall be delivered to him by the Functionary before whom he has taken it, a Certificate under the hand of such Functionary in the form G of the said Schedule ; 5.

Penalty for refusing to perform the duty.

3. Any person so appointed a Deputy Returning Officer who refuses to accept the said office, or who after having accepted the same refuses or neglects either to take and subscribe the said Oath hereby required of him, or to perform the duties of a Deputy Returning Officer, shall, for such neglect or refusal, incur a penalty of twenty-five poun ds. 12 V. c. 27, s. 18—*part.* 10

In Upper Canada certain local officers to be appointed Deputy Returning Officers.

45. The Returning Officer for every County, or Riding or Electoral Division for the Legislative Council, in Upper Canada, shall appoint as such his Deputy for each Township or Union of Townships in which a Polling place is to be opened and kept according to law, the Town Clerk for the time being of such Township or Union of Townships, and in case of the absence, sickness or death of any such Town Clerk, then he shall appoint as such his Deputy, as aforesaid, instead of such Town Clerk, the Assessor or Collector of such Township or Union of Townships ; 12 V. c. 27, s. 18—*remainder.* 15 20 25

Any Township attached to a Town for electoral purposes, to be considered a Ward of such Town.

2. Any Township or part of a Township in Upper Canada, which is by law made part of a Town for the purpose of Representation, although not otherwise within the limits thereof, shall, for the purpose of holding an Election of a Member of the Legislative Council or Assembly, be dealt with, except as to the qualification of Electors, as if it were a Ward of such Town ; and if a Poll be demanded and granted at such Election, a Deputy Returning Officer shall be appointed for such Township, or part of a Township and all other proceedings shall be had, as if it were a Ward of such Town, except that the Town Clerk of such Township, or in case of his absence, sickness, death or incapacity to act, the Assessor or Collector thereof, shall be appointed Deputy Returning Officer therefor ; 16 V. c. 152, s. 5—*part.* 30 35

In case a Township is divided into two parts for electoral purposes, &c.

3. And whenever any Township in Upper Canada is divided into two Townships for the purpose of Representation only, then the Town Clerk of the Municipal Township so divided shall be appointed Deputy Returning Officer for that one of the Representation Townships which is first mentioned in the law so dividing the Township, and the Assessor or Collector of such Municipal Township shall be appointed for the other ; 40 45

4. In incorporated Villages and Towns not divided into Wards in Upper Canada, the foregoing provisions shall apply as regards the person to be appointed Deputy Returning Officer, and the Clerk of the Village or Town or the Assessor or Collector thereof or other person, as the case may require, shall be appointed accordingly; but in Towns divided into Wards, any person may be appointed Deputy Returning Officer for any Ward therein; 16 V. c. 152, s. 6—*part.*

Foregoing provisions to apply to Villages and Towns not divided into Wards in U. C.

5. If in any case in Upper Canada there is more than one person who may by law be appointed Deputy Returning Officer, then the Returning Officer may appoint either of such persons; and if there be no person who ought to be appointed, or the person who ought to be appointed be absent, or from sickness or otherwise be unable to act, the Returning Officer may appoint such person as he thinks proper to be Deputy Returning Officer. 16 V. 152, s. 5—*part.*

In certain cases in U. C. the Returning Officer may choose his Deputy.

46. The Returning Officer may appoint in the manner above provided, another person to be Deputy Returning Officer, when and so often as the case may require such appointment, either by reason of the death, illness or absence of a Deputy Returning Officer previously appointed, or by reason of his refusal or neglect to act in that capacity, or otherwise; and such new Deputy Returning Officer so appointed shall perform all the duties and obligations of the said office under the same penalties in case of refusal or neglect on his part, as are hereinabove imposed in like cases. 12 V. c. 27, s. 18, *as amended by the Provisions inserted from 16 V. c. 152, and 14, 15 V. c. 108.*

And the Deputy Returning Officer may be appointed in certain cases.

His duties, &c.

47. The Returning Officer shall, by a Warrant under his hand, in the form K of the said Schedule, and addressed to each of the Deputy Returning Officers by him appointed as aforesaid, require such Deputy Returning Officer to open and hold the Poll according to law, at the time and place by him fixed as hereinbefore provided and set forth in his said Warrant, in the Parish, Township or Union of Townships, or Ward, or part of a parish or Township, or Ward (as the case may be), for which such Deputy has been so appointed, and to take and record at such Poll, in a Book which such Deputy shall keep or cause to be kept for that purpose, in the form L of the said Schedule, the votes of the Electors voting at the said Poll, and to return to him the said Poll Book signed with his hand and sealed with his seal, on or before the said day fixed by the Returning Officer for closing the Election. 12 V. c. 27, s. 19.

Returning Officer to issue his Warrant for holding the Polls, &c., to each of his Deputies.

Form of Poll Book, return thereof, &c.

PROCEEDINGS PRELIMINARY TO POLLING.

Lists of Electors.

48. Every Returning Officer, upon receiving a Writ to hold any Election for a Member to serve in the Legislative Council

Returning Officer to see

or

that each of his Deputies is furnished with a proper list of voters.

or Assembly, shall ascertain that every Deputy Returning Officer is in possession of a certified copy of the then last revised and certified list of voters within the Municipality, part of a municipality, or Ward of a City, for which he is Deputy Returning Officer :

5

He shall procure such lists when requisite.

2. If the Clerk of the Municipality is not the Deputy Returning Officer, or if the copy in the possession of the Clerk has been lost or destroyed, the Returning Officer shall procure from the Registrar of the County or Registration Division in Lower Canada, or from the Clerk of the Peace in Upper Canada, a copy 10 certified by him to be correct of the then last list of voters for such Municipality, part of a Municipality or Ward, filed in his office, and shall cause the same to be delivered to the Deputy Returning Officer ;

And charge for them.

3. The Returning Officer shall be authorized to include any 15 charge for obtaining such certified copies in the account of the general expenses of holding such Election, furnished by him to the Government. 22 V. c. 82, s. 9.

Appointment and general duties of Poll Clerks.

Deputy Returning Officers to appoint Poll Clerks to take oaths of office, &c.

49. Every Deputy Returning Officer, as well in Upper as in Lower Canada, shall, by a Commission under his hand, and in 20 the form H of the said Schedule, appoint a Poll Clerk to assist him in taking the Poll according to law ; and each Poll Clerk appointed as aforesaid shall, before acting as such, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, 25 or such Deputy Returning Officer, the Oath number Four, in the said Schedule, of the taking of which Oath there shall be delivered to him, by the Functionary before whom it has been taken, a Certificate under his hand, in the form J in the said Schedule : 30

Penalty for refusing to act, &c.

2. Any person so appointed a Poll Clerk who refuses to accept the said office, or who, after having accepted the same, refuses or neglects either to take and subscribe the Oath hereby required of him, or to perform the duties of a Poll Clerk, shall for such neglect or refusal, incur a penalty of ten Pounds. 12 V. c. 27, 35 s. 18.

Duty of the Poll Clerk.

50. Each Poll Clerk shall, at the Polling place for which he is appointed, aid and assist, in the performance of the duties of his office, the Deputy Returning Officer appointed to open and keep the Poll at such place in conformity to this chapter, and 40 shall obey the orders of the said Deputy Returning Officer :

To perform the duty of Deputy Re-

2. If the Deputy Returning Officer refuses or neglects to perform the duties of his office, or becomes unable to perform them, either by death, illness, absence or otherwise, and if in any

any such case no other Deputy Returning Officer duly appointed by the Returning Officer in the place of the former, appears at the Polling place, then such Poll Clerk shall, (under the same penalties as are hereinbefore imposed in like cases on a Deputy Returning Officer), act at such Poll as Deputy Returning Officer, and perform all the duties and obligations of that office, in the same manner as if he had been appointed Deputy Returning Officer by the Returning Officer, and without being bound to take any new oath for that purpose ;

10 3. Whenever any Poll Clerk, in the case hereinbefore provided, acts as Deputy Returning Officer, he may appoint by a Commission under his hand, in the form H of the said Schedule, another person as Poll Clerk, to aid and assist him as aforesaid in the performance of the duties of his office, and may
15 administer to such person the oath required of a Poll Clerk by this chapter ; and the Poll Clerk so appointed shall have the same duties and obligations as if he had been appointed Poll Clerk by the Deputy Returning Officer himself ;

4. And also, whenever any Poll Clerk appointed under the
20 requirements of this chapter refuses or neglects to perform his duty as such, or becomes unable to perform it, either by death, illness, absence or other cause, the Deputy Returning Officer, whose Poll Clerk he was, may appoint by a Commission under his hand in the form H of the said Schedule, another person as
25 Clerk at the said Polling place, to aid and assist him as aforesaid in the duties of his office, and may administer to him the oath required of a Poll Clerk by this Chapter. 12 V. c. 27, s. 21.

TAKING AND RECORDING THE VOTES.

30 **51.** Each Deputy Returning Officer shall write in full at the head of each page of the Poll Book used by him, the number of such page, and certify the same by his signature as follows : " Page Number one, (or Two, or as the case may be) A. B., Deputy Returning Officer," and he shall
35 certify in full words at the foot thereof, (before entering any name or vote in the next succeeding page) the first and last name and the total number of names entered thereon, and shall then sign the same, which certificate shall be to the effect following : " I certify that the total number of names
40 " entered on this page as of voters is _____, whereof the first name is C. D., and the last name is E. F.—Signed, A. B., Deputy Returning Officer." 22 V. c. 82, s. 14—*part*.

52. Each Deputy Returning Officer shall, at the Polling place kept by him in conformity to this chapter, record or cause to be recorded in such Poll Book as aforesaid, and in the order in
45 which they shall be given, the votes of the Electors voting at such Polling place, by entering therein the name, surname, legal addition and residence of each Elector so voting, and by shewing

turning Officer in certain cases.

In such case he may appoint another Poll Clerk.

Deputy Returning Officer may appoint another Poll Clerk in certain cases.

Deputy Returning Officer may certify each page of the Poll Book.

Mode of recording the votes in the Poll Books.

As to electors sworn.

shewing by the insertion of the word "Owner," or the word "Tenant," or "Occupant," in the said Poll Book, whether it is as a proprietor or as a tenant or occupant that such Elector claims the right of voting at such Poll; and when any Elector has taken the oath required of him by this Act, the Deputy Returning Officer shall state in the Poll Book that such oath was taken by the Elector, by entering after the name of such Elector, in the proper column in the said Poll Book, the word "Sworn," and nothing more. 12 V. c. 27, s. 20. 5

Votes objected to, how to be distinguished in the Poll Book.

53. In every case where the vote of any person is objected to by any Candidate or his Agent, the Deputy Returning Officer shall enter the objection in his Poll Book by writing after the name of the voter, in the column for objections, the words "objected to" only, mentioning at the same time by which Candidate, or on behalf of what Candidate the objection has been made, by adding after the words "objected to" the name only of such Candidate. 12 V. c. 27, s. 40—*part.* 10 15

Persons on the list of voters to be allowed to vote on taking a certain oath, if required.

54. The Deputy Returning Officer, at any Election of a Member of the Legislative Council or Assembly in any part of this Province, shall receive the vote of any person whose name he finds in the proper list of voters furnished to him, or in his possession as aforesaid,—provided that such person shall, if required by any Candidate or the Agent of any Candidate, or by the Deputy Returning Officer himself, take the following oath or affirmation, which such Deputy Returning Officer is hereby empowered to administer: 20 25

The oath.

"You swear (*or solemnly affirm*) that you are (*name of voter as entered on the list,*) whose name is entered on the list of voters now shewn to you (*showing the list to the voter*) that you are a subject of Her Majesty by birth (*or naturalization*), that you are of the full age of twenty-one years,—that you have not before voted at this Election, either at this or any other polling place, and that you have not received any thing, nor has any thing been promised to you, either directly or indirectly, in order to induce you to vote at this Election. So help you God." 30 35

No other oath to be taken.

And no other oath or affirmation shall be required of any person whose name is entered on any such list of voters as aforesaid. 22 V. c. 82, s. 10.

Deputy Returning Officer must swear voters in certain cases.

55. Whenever any Deputy Returning Officer has reason to know or believe that frauds and violence are being practised in violation of the rights of Electors, by which undue votes are tendered, or that any voter is not qualified, or has already voted at the said Election and offers to vote again, or tenders his vote under a false name or designation, or personates or represents himself falsely as being on the List of Voters,—such Deputy Returning Officer, under penalty of fifty pounds currency, 45

Penalty for not doing so.

currency, shall administer the oath authorized by Law to such Voter, whether he be required so to do or not by any party, of which mention shall be made in the Poll Book; 22 V. c. 82, s. 12.

5 2. If any voter votes at any such election without having previously taken such oath or made such affirmation, when he has been thereto required by one of the Candidates or his Agent, such voter shall incur a penalty of Ten pounds currency; 12 V. c. 27, s. 41. Penalty for voting without taking the oath, when required.

10 3. And when any such voter has been so required by the Deputy Returning Officer, or by any of the Candidates or his Agent to take such oath or make such affirmation, and refuses to take or make the same, his refusal shall be stated by the Deputy Returning Officer in his Poll Book, by entering after the name of such voter the word "refused," and in every such case the vote shall not be taken or recorded in the said Poll Book; and if any vote is in any such case taken and recorded, it shall be *ipso facto* null and void, and the Deputy Returning Officer shall, for having taken and recorded the same, or for having caused it to be taken and recorded in his said Poll Book, incur a penalty of ten pounds. 12 V. c. 27, s. 41. Penalty for so refusing.

25 56. Every Deputy Returning Officer during the continuance of his authority as such Deputy, may administer the oath or affirmation of allegiance to any person who, under the authority of any Act or Acts either of the Parliament of this Province, or of either of the late Provinces of Lower or Upper Canada, would, upon taking such oath or affirmation, become entitled to the privileges of British Birth in this Province without further residence therein, or other formality than the taking such oath or affirmation; which oath or affirmation so taken before such Deputy Returning Officer shall, to all intents and purposes whatsoever, have a like effect upon the civil and political rights of the party taking the same, as if such oath or affirmation had been administered by any Commissioner or other Public Officer directed by such Acts or any of them. 12 V. c. 27, s. 43. Deputy Returning-Officer may administer the oath of allegiance to persons needing only such oath to become naturalized.

40 57. Whenever any Elector does not understand the English language, or the French language, or understands neither of the said languages, the Deputy Returning Officer may make use of an Interpreter to translate the Oath or Affirmation required of such Elector, as well as any lawful questions necessarily put to him and his answers; and such Interpreter shall take before the said Deputy Returning Officer the Oath, (or if he be one of the persons permitted by law to affirm in civil cases, the Affirmation) following:

"I swear (or affirm) that I will faithfully translate such oaths, declarations, affirmations, questions and answers as the Deputy Returning Officer shall require me to translate at this Election. So help me God." 12 V. c. 27, s. 47. His oath.

Deputy Returning-Officer to certify the state of the Poll after each day's polling.

58. The Deputy Returning Officer shall, at the close of each day's polling, certify under his signature on the said Book, and in full words, the true state of the votes at such close to the effect following: "I certify that the number of the votes polled at the close of the first (or second, as the case may be) day's polling is (the total number of votes polled) _____, whereof G. H. a Candidate has polled _____; J. K. a Candidate has polled _____; L. M. a Candidate has polled _____ (as the case may be).—Signed, A. B., Deputy Returning Officer;" of which state of the votes he shall give certified copies to any person demanding the same, before he, the said Deputy Returning Officer, leaves the polling place for that day. 22 V. c. 82, s. 14—part.

Returning Officer or Deputy not to grant any scrutiny.

59. No Returning Officer or Deputy Returning Officer shall grant, make or enter into any scrutiny of the Votes given at any Election. 12 V. c. 27, s. 28.

PENALTIES FOR VOTING FRAUDULENTLY.

Punishment for falsely personating a voter on the list.

60. If at the Election of a Member to serve in the Legislative Council or Assembly, any person knowingly personates and falsely assumes to vote in the name of any other person whose name appears on the proper list of voters, whether such other person be then living or dead,—or if the name of the said other person be the name of a fictitious person,—every such person shall be guilty of a misdemeanor, and on being convicted thereof, shall be liable to a fine not exceeding two hundred dollars, or to be imprisoned for a term not exceeding six months, or both, at the discretion of the Court. 22 V. c. 82, s. 11.

Penalty on unqualified persons voting.

61. Any person wilfully voting at any such Election, without having, at the time of his so voting, all the qualifications required by law for entitling him so to vote at such Election, knowing at the time that he was not so entitled, shall, for so doing, incur a penalty of ten pounds, and his vote shall moreover be null and void; and in any action or prosecution instituted as hereinafter provided against any such person for the recovery of the said penalty, the burden of the proof of such person having, at the time of his so voting at such Election, all the said qualifications, or good reason for believing so, shall fall upon him and not upon the party instituting such action or prosecution; and any person who votes more than once at the same Election shall for so doing incur a like penalty of ten pounds, and every vote he gives subsequently to his first vote shall be null and void. 12 V. c. 27, s. 44.

Proof of the qualification to be on the person voting.

Penalty for voting more than once at the same election.

Penalty for fraudulently conveying lands in order to give a vote.

62. If any lands or tenements are transferred or conveyed to any person, by any title or instrument whatsoever, fraudulently, and for the purpose of giving him the qualification requisite to enable him to vote at any Election, and if such person votes at such Election,

Election, upon such lands or tenements, he shall incur a penalty of twenty-five pounds ; and nevertheless such transfer or conveyance, notwithstanding any agreement to annul or revoke the same, or to reconvey such lands or tenements, shall be valid, and shall transfer such lands or tenements out of and from the person who has so transferred or conveyed the same, and shall vest them in the person to whom they have been so transferred or conveyed, to all intents and purposes whatsoever ; and every such agreement to annul or revoke any such transfer or conveyance, or to reconvey such lands or tenements, whether such agreement has been made with the person so transferring or conveying, or with the person to whom such lands or tenements are so transferred or conveyed, or with any person or persons acting for them or on their behalf, shall be null and void to all intents and purposes whatsoever. 12 V. c. 27, s. 45.*

But the conveyance shall be valid.

Any agreement to the contrary notwithstanding.

PROCEEDINGS AFTER THE CLOSE OF THE POLLS.

63. Every Poll Clerk shall, after the closing of the Poll at which he has acted as such, but before the Deputy Returning Officer who has kept the same has returned the Poll Book to the Returning Officer, as herein required, make and subscribe, either before a Justice of the Peace for the county or district in which he resides, or before the said Deputy Returning Officer, or before the Returning Officer himself, the oath in the Form M of the schedule hereunto annexed, which oath shall thereafter be annexed to the said Poll Book :

Oath to be made by each Poll Clerk before the Poll Book is returned.

2. And the Deputy Returning Officer who has kept and closed the Poll shall, before returning the Poll Book as aforesaid to the Returning Officer, make and subscribe, either before a Justice of the Peace for the county or district where he resides, or before the said Returning Officer, the oath in the Form N of the said schedule, which oath shall thereafter be annexed to the said Poll Book ; and the Deputy Returning Officer shall then return the Poll Book to the Returning Officer on or before the day fixed for closing the election ;

Oath to be made by the Deputy Returning Officer.

Poll Book to be then returned.

3. Any Deputy Returning Officer or Poll Clerk who refuses or neglects to perform any of the obligations or formalities required of him by this section, shall, for each such refusal or neglect, incur the penalty hereinafter mentioned, that is to say : any Deputy Returning Officer, a penalty of fifty pounds currency, and any Poll Clerk, a penalty of twenty pounds currency. 22 V. c. 82, s. 15.

Penalties for neglect, &c.

64. The Deputy Returning Officer shall deliver the said Poll Book personally to the Returning Officer ; and if he

be delivered he

* NOTE—The words " his vote shall be void " are omitted,—the entry on the proper Assessment-Roll and List of Voters beinmade conclusive.

by Deputy in person, unless in case of sickness, &c. he is unable to do so by sickness or otherwise, he shall deliver such Poll Book under a sealed cover to a person chosen by him, and shall mention on the outside of such cover the name of the person to whom it has been delivered under a sealed cover to be so transmitted, and shall take a proper receipt therefor ;—And any Deputy Returning Officer failing therein, or in any of the obligations or formalities herein prescribed as to the duties of Deputy Returning Officers, and any person having taken charge of the Poll Book and failing to deliver the same so covered and sealed in the same state in which he received it, in due time and manner, shall be guilty of a misdemeanor, and shall incur a penalty of one hundred pounds currency, or be imprisoned for a term of not less than six months and not more than one year, or be punished by imprisonment and fine together. 22 V. c. 82, s. 16.

Penalty for neglect.

CLOSING THE ELECTION, AND PROCEEDINGS THEREAFTER.

65. On the day so fixed as aforesaid by the Returning Officer for closing the Election, the said Returning Officer shall proceed at the appointed hour to the same place at which he opened the Election and granted a Poll ; and he shall then and there, in the presence of the electors assembled, proceed to ascertain the state of the General Poll at the Election, by counting and adding up from each Poll Book the total number of votes taken and recorded at the Election in all the Parishes or Townships or Unions of Townships or Wards, or part of Parishes or Townships in such Electoral Division for which the Election has been had ; and as soon as he shall have so ascertained the total number of votes, he shall then and there openly proclaim, as being duly elected a member or members to represent such Electoral Division in the Legislative Council or the Legislative Assembly, the person or persons having the greatest number of the votes so counted and added up ; but the Returning Officer shall not in any case proclaim any such person or persons duly elected, unless all the Poll Books have been returned to him by all his Deputy Returning Officers. 12 V. c. 27, s. 23, as explained by 16 V. c. 7.

Proceedings on the day appointed for closing the election.

Counting the votes.

Proclamation of the person elected.

But if all the Poll Books have not been returned.

Proceedings to be adjourned till all the Poll Books are returned.

66. If on the day fixed by the Returning Officer for closing the Election, it happens that one or more of the Poll Books have not been returned by the Deputy Returning Officer or Officers, and it is consequently impossible for him to ascertain the total number of votes as required by the next preceding section, then such Returning Officer, instead of proceeding on the said day to examine the Poll Books which have been previously returned to him, shall again adjourn the proceedings of the Election to the following day, and so from day to day until all the said Poll Books have been returned to him :

2. In proclaiming such adjournment he shall publicly assign the reason thereof, and shall in no case continue the said adjournment to so late a day as to prevent his returning the Writ of Election on the day appointed for that purpose; and he shall in no case adjourn such proceedings to a Sunday or to any of the Holy-days hereinbefore mentioned, but if the case occurs he shall adjourn the proceedings to the day next after such Sunday or Holy-day. 12 V. c. 27. s. 24.

Reason of adjournment to be proclaimed. Adjournment not to be to any Sunday or Holy-day.

67. Immediately after any Election is closed by the Proclamation to be made by the Returning Officer as aforesaid, of the person or persons duly elected, the Returning Officer shall forthwith execute under his hand and seal, and the hands and seals of at least three Electors, an Indenture of the Election in the form O of the said Schedule; and such Indenture shall be in duplicate or in triplicate, as the case may require, and one copy shall be delivered by the Returning Officer to each person so elected, and the Returning Officer shall transmit one copy thereof to the Clerk of the Crown in Chancery, with the return of the Writ of Election. 12 V. c. 27, s. 25.

Indenture to be executed, and one copy returned with the writ.

68. In case any Poll Book is stolen or taken from its lawful place of deposit for the time being, or has been lost or destroyed, or otherwise placed beyond the reach of the Deputy Returning Officer to whom the custody of such Poll Book for the time being belonged, at any time before he has made his return of the same to the Returning Officer, such Deputy Returning Officer shall attend personally on the Returning Officer and report to him the fact of such loss of the said Poll Book, and the Poll Clerk of such Deputy Returning Officer, so soon as he is informed of such loss personally or by letter, either by or from such Deputy Returning Officer, or the Returning Officer himself, or has other good reasons for believing that such loss has occurred, shall forthwith attend personally on such Returning Officer:

Proceedings in case any Poll Book is stolen, lost or destroyed.

2. The Returning Officer shall examine such Deputy Returning Officer and Poll Clerk upon oath or affirmation, as the occasion may require, as to such loss of the said Poll Book and the contents thereof, which examination shall be taken down by him in writing, and be subscribed by such Deputy Returning Officer and Poll Clerk, and annexed to the Return in lieu of such Poll Book; And the number of votes which the said Returning Officer shall by this means find to have been recorded in such Poll Book for each Candidate at such Election, shall be included in his summing up of the Votes of such Election, as if the same had been taken from such Poll Book;

Examination of Deputy Returning Officer & Poll Clerk, &c.

3. If either the Deputy Returning Officer or the Poll Clerk omits to attend on such Returning Officer as hereby required, or refuses to be sworn or affirmed by such Returning Officer as aforesaid, he shall be subject to a penalty of Fifty Pounds, and

Punishment of Deputy Returning Officer or Poll Clerk refusing in

to attend or be sworn. in the case of such refusal to be sworn or affirmed as aforesaid, shall and may be committed by the said Returning Officer to the common Gaol of the County or District, until thence discharged by an order in that behalf made by that House of the Legislature for a Member of which the Election was had. 12 5
V. c. 27, s. 26.

Duty of Returning Officer believing any Election Documents to be altered, &c. **69.** When the Returning Officer having received any Poll Book, or any document connected with the Election, has reason to believe that the same has been altered, injured or obliterated, or that additions have been made thereto, he shall 10
adjourn proceedings and establish the true facts in the manner above provided in case of the loss of any Poll Book. 22 V. c. 82, s. 19.

Returning Officers to have copies of the Poll Books made and deposit the same. **70.** Each Returning Officer shall make or cause to be made 15
exact copies of all the Poll Books returned to him by his several Deputies, and within ten days after the closing of the Election, shall deposit such copies duly certified by him in the Office of the Registrar of deeds and titles for that County or part of a County within which the place where the nomination of the Candidates at such Election was made, is situate; and 20
the said Registrar shall allow inspection thereof to any person who may demand the same on payment of a fee of one shilling; and shall allow such person to take copy of the same at his own expense;

To be open to the public. Fee.

Originals to be returned with the writ of Election. Their effect as evidence. **2.** The Returning Officer shall also then transmit the originals 25
of the said Poll Books, with the Writ of Election and his return thereupon, to the Clerk of the Crown in Chancery, within fifteen days after the closing of the Election; and the said original Poll Books, with the affidavits and certificates hereinabove required, shall in all cases be *prima facie* evidence of 30
the truth of the allegations therein contained. 12 V. c. 27, s. 27.

Copies of the lists of voters used to be sent to Clerk of the Crown, with the writ. **71.** The Returning Officer shall forward to the Clerk of the Crown in Chancery, with his return to the Writ of Election, copies of the lists of voters used at that election, duly certified as such by him. 22 V. c. 82, s. 18. 35

KEEPING THE PEACE AND GOOD ORDER AT ELECTIONS.

Returning Officer and his Deputies to be Conservators of the Peace, during a certain time. **72.** From the time when any Returning Officer or Deputy Returning Officer has taken and subscribed the Oath of Office as such, until the day next after the final closing of such Election, such Returning Officer or Deputy Returning Officer, respectively, shall be a Conservator of the Peace, and invested, for the 40
maintenance of the peace, for the arrest, detention or admission to bail, trial and conviction of any person or persons who break the law or trouble the peace, with the same powers with which Justices of the Peace are invested in this Province :

2. And for the maintenance of the peace and of good order at such Election, each such Returning Officer or Deputy Returning Officer, respectively, may require the assistance of all Justices of the Peace, Constables, and other persons present at the Election, whether at the Hustings or at any Polling place, to aid him in so doing, and may also swear in so many Special Constables as he deems necessary ;

They may require the aid of Justices of the Peace, constables, &c., and swear in Special Constables.

3. And each such Returning Officer or Deputy Returning Officer, respectively, may arrest or cause to be arrested by verbal order, and may place in the custody of one or more Constables or other persons, for such time as in his discretion he deems expedient, any person disturbing the peace and good order, or may cause such person to be imprisoned for any such offence, under an order signed by him, until any period not later than the final closing of the Election or of the Poll, respectively ; which order, whether given verbally or in writing, all persons shall obey without delay, under a penalty, for any refusal or neglect so to do, of five pounds ;

May arrest disturbers, or order them to be arrested for a certain time.

4. And no such arrest, detention or imprisonment shall in any manner exempt the person so arrested, detained, confined or imprisoned, from any pains or penalty to which he has become liable by reason of any thing by him done contrary to the true intent and meaning of this Chapter or otherwise. 12 V. c. 27, s. 50.

Such detention not to prevent other punishment.

73. On a requisition in writing made by any Candidate or by his Agent, or by any two or more Electors, any Returning Officer or Deputy Returning Officer shall swear in such Special Constables. 12 V. c. 27, s. 51.

Special Constables to be sworn in certain cases.

74. Any Returning Officer or Deputy Returning Officer may, during any part of the days whereon any such Election is to be begun, holden or proceeded with, or on which any Poll for such Election is to be begun, holden or proceeded with, demand and receive from any person whomsoever, any offensive weapon, such as fire-arms, swords, staves, bludgeons, or the like, with which any such person is armed, or which any such person has in his hands or personal possession :

Returning Officer or his Deputy, may demand the surrender of all arms.

2. And every such person, who upon such demand, declines or refuses to deliver up to such Returning Officer or Deputy Returning Officer, any such offensive weapon as aforesaid, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five pounds, or imprisonment not exceeding three months, or by both, in the discretion of the Court whose duty it is to pass the sentence of the law upon such person, upon his conviction. 12 V. c. 27, s. 52.

Penalty for refusing to surrender the same.

75. Every person convicted of a battery committed during any part of the days whereon any such Election is to be begun, holden,

Certain batteries during holden,

Election time, to be deemed aggravated assaults.

holden, or proceeded with, or on which any Poll for such Election is to be begun, holden, or proceeded with, within the distance of two miles of the place where such Election or such Poll is to be begun, holden, or proceeded with, shall be deemed guilty of an aggravated assault, and shall be punished accordingly. 12 V. c. 27, s. 53. 5

Entertainment not to be furnished to Electors.

76. No Candidate for the representation of any Electoral Division shall with intent to promote his Election, nor shall any other person, with intent to promote the Election of any such Candidate, either provide or furnish entertainment at the expense of such Candidate or other person, to any meeting of Electors assembled for the purpose of promoting such Election, previous to or during the Election at which he is a Candidate, or pay for, procure or engage to pay for any such entertainment: 10

Except at the residence of the party furnishing it.

2. Except only that nothing herein contained shall extend to any entertainment furnished to any such meeting of Electors, by or at the expense of any person or persons at his, her or their usual place of residence. 12 V. c 27, s. 57. 15

With certain exceptions, no stranger shall come armed into any Parish, &c., while the Poll is open therein.

77. Except the Returning Officer for such Election, or his Deputy for such Parish, Township or Union of Townships, or Ward, or the Poll Clerk for such Parish, Township or Union of Townships, or Ward, or one of the Constables or Special Constables appointed by such Returning Officer or his Deputy, for the orderly conduct of such Election or Poll, and the preservation of the public peace thereat, no person who hath not had a stated residence in such Parish, Township or Union of Townships, or Ward, for at least six months next before the day of such Election, shall come during any part of the days upon which such Poll is to remain open, into such Parish, Township or Union of Townships, or Ward, armed with offensive weapons of any kind, as fire-arms, swords, staves, bludgeons, or the like; nor shall any person whomsoever being in such Parish, Township, Union of Townships or Ward, arm himself during any part of either of such days with any such offensive weapons, and thus armed approach within the distance of two miles of the place where the Poll is held, unless called upon to do so by lawful authority. 12 V. c. 27, s. 58. 20 25 30 35

Nor shall any armed person approach within two miles of the Poll.

Party ensigns, flags, &c., not to be carried during any Election or within eight days before it.

78. No Candidate for the representation of any Electoral Division, or any other person, shall furnish or supply any ensign, standard, or set of colours, or any other flag, to or for any person or persons whomsoever, with intent that the same should be carried or used in such Electoral Division, on the day of Election, or within eight days before such day or during the continuance of such Election, by such person or any other, as a party flag, to distinguish the bearer thereof and those who might follow the same, as the supporters of such Candidate, or of 40 45

of the political or other opinions entertained or supposed to be entertained by such Candidate, nor shall any person for any reason carry or use any such ensign, standard, set of colours, or other flag, as a party flag, within such Electoral Division on the day of any such Election, or within eight days before such day, or during the continuance of such Election. 12 V. c. 27, s. 59.

79. No Candidate for the representation of any Electoral Division, or any other person, shall furnish or supply any ribbon, label, or the like favor, to or for any person whomsoever, with intent that the same should be worn or used within such Electoral Division on the day of Election, or within eight days before such day, or during the continuance of such Election, by such person or any other as a party badge to distinguish the wearer, as the supporter of such Candidate, or of the political or other opinions entertained or supposed to be entertained by such Candidate, nor shall any person use or wear any ribbon, label or other favor, as such badge, within such Electoral Division, on the day of any such Election, or within eight days before such day, or during the continuance of such Election. 12 V. c. 27, s. 60.

Party badges, &c., not to be used during a like time.

80. Every person offending against any of the provisions of the four next preceding Sections, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding Twenty-five pounds, or imprisonment not exceeding six months, or by both, in the discretion of the Court passing the sentence of the law upon such person upon his conviction. 12 V. c. 27, s. 61.

Punishment for contravening the four next preceding sections.

81. Every hotel, tavern, and shop in which spirituous or fermented liquors or drinks are ordinarily sold, shall be closed during the two days appointed for polling in the wards or municipalities in which the polls are held, in the same manner as it should be on Sunday during Divine Service, and no spirituous or fermented liquors or drinks shall be sold or given during the said period,—under a penalty of twenty-five pounds against the keeper thereof if he neglects to close it, and under a like penalty if he sells or gives any spirituous or fermented liquors or drinks as aforesaid. 22 V. c. 82, s. 13.

All taverns, &c., to be strictly closed during the polling days.

PREVENTION OF CORRUPT PRACTICES AT ELECTIONS.

82. No Candidate at any Election shall, directly or indirectly, employ any means of corruption, by giving any sum of money, office, place, employment, gratuity, reward, or any bond, bill, or note or conveyance of land, or any promise of the same, nor shall he either by himself or his authorized Agent for that purpose, threaten any Elector of losing any office, salary, income or advantage, with the intent to corrupt or bribe any Elector to vote for such Candidate, or to keep back any Elector from voting for any other Candidate, nor shall he open and support,

Provisions against bribery and corruption.

or

Punishment of members against whom bribery or corruption is proved.

or cause to be opened and supported at his costs and charges, any house of public entertainment for the accommodation of the Electors ; And if any Representative returned to Parliament is proved guilty before the proper Tribunal, of using any of the above means to procure his Election, his Election shall thereby be declared void, and he shall be incapable of being a Candidate, or being elected or returned during that Parliament. 12 V. c. 27, s. 54.

Penalty on parties giving or receiving corruptly any consideration for voting.

83. Any person who gives or causes to be given, or loans any sum of money, or gives any office, place or employment, gratuity or reward, or any bond, bill or note, or conveyance of land, or other property, or promise of the same to any Elector, in consideration of or for the purpose of corrupting him to give his vote for any Candidate, or to forbear to give his vote to any Candidate, or as a compensation to any Elector for his loss of time or expenses in going to or returning from voting, or on any other pretence whatsoever, and any voter who accepts the same for the aforesaid purpose, shall forfeit and pay a sum not less than five pounds nor more than fifty pounds, in the discretion of the Court having jurisdiction of the same, with costs of suit, and which may be sued for and recovered by action or plaint in any Court of Record in this Province, having competent jurisdiction. 12 V. c. 27, s. 55.

How recoverable.

Votes corruptly given to be struck off the Poll Book.

84. Upon its being proved before the proper Tribunal of the Legislative Council or Assembly, at the trial of any contested Election, that any Elector voting at the said Election was bribed to give his vote, the name of such voter shall be struck from the Poll Book. 12 V. c. 27, s. 56.

PENALTIES AND PUNISHMENTS.

Persons stealing or unlawfully taking or falsifying documents relating to elections, &c.

85. If any person steals, or unlawfully or maliciously, either by violence or stealth, takes from any Deputy Returning Officer or Poll Clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, or makes or causes to be made any erasure, addition of names or interlineation of names in, to, or upon, or aids, counsels or assists in so stealing, taking, destroying, injuring or obliterating, or in making any erasure, addition of names, or interlineation of names, in, to or upon, any List of Voters or any Writ of Election, or any Return to a Writ of Election, or any Indenture, Poll Book, Certificate, or Affidavit, or any other document or paper, made, prepared or drawn out according to or for the purpose of meeting the requirements of this Chapter or any of them,—every such offender shall be guilty of a felony, and being convicted thereof, shall be liable at the discretion of the Court to be imprisoned at hard labour in the Provincial

To be guilty of felony &c, how punishable.

Provincial Penitentiary, for any term not exceeding seven years nor less than two years, or to be imprisoned in any other place of confinement for any term less than two years, or to suffer such other punishment by fine or imprisonment or both as the Court shall award; And it shall not, in any indictment for any such offence, be necessary to allege that the article in respect of which the offence is committed is the property of any person, or that the same is of any value. 22 V. c. 82, s. 17. *And similar provision was made by 12 V. c. 27, s. 62, which this section supersedes.*

Certain averments not requisite in the indictment.

86. Every person who aids, abets, counsels, or procures the commission of any misdemeanor under this Chapter, shall be liable to be indicted and punished as a principal offender. 22 V. c. 82, s. 21.

Abettors punishable as principals.

87. All penalties imposed by this chapter, shall be recoverable, with full costs of suit, by any person who will sue for the same by action of debt or information, in any of Her Majesty's Courts in this Province having competent jurisdiction; and in default of payment of the amount which the offender is condemned to pay, within the period to be fixed by such Court, such offender shall be imprisoned in the Common Gaol of the place until he has paid the amount which he has been so condemned to pay, and the costs:

How penalties under this Act shall be recoverable.

Payment thereof how enforced.

2. It shall be sufficient for the plaintiff in any action or suit given by this Chapter, to state in the declaration that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant had acted contrary to this Chapter, without mentioning the Writ of Election or the Return thereof;

What it shall be sufficient to state in the declaration.

3. It shall be sufficient in any indictment or information for any offence committed contrary to this Chapter, to allege the particular offence charged upon the defendant, and that the defendant is guilty thereof, without mentioning the Writ of Election or the Return thereof, or the authority of the Returning Officer founded upon any such Writ of Election;

And in any indictment under this Act.

4. It shall not be necessary on the trial of any suit or prosecution under this Chapter, to produce the Writ of Election or the Return thereof, or the authority of the Returning Officer founded upon any such Writ of Election, but general evidence of such facts shall be sufficient evidence:

On the trial, writ, &c., need not be produced.

5. Every action, suit or information given by this chapter, shall be commenced within the space of nine months next after the fact committed, and not afterwards. 12 V. c. 27, s. 64.

Limitation of suits under this Act.

False swearing to be perjury.

88. Every person taking any Oath or Affirmation under this Chapter, who wilfully swears or affirms falsely, shall be deemed guilty of perjury. 22 V. c. 82, s. 20.

FEEES AND EXPENSES.

Fees for services and disbursements at Elections.

89. The Fees hereinafter mentioned, and no other, shall be allowed to the several Officers hereinafter mentioned, respectively, for their services and disbursements at any Election, that is to say :

TO THE RETURNING OFFICER.

Returning Officer.

For attendance on the day of opening the Election, two pounds ;

For attendance on the day of closing the Election, when polls have been taken, two pounds ;

For an Election Clerk, for each of those two days when attendance is required, one pound ;

For two Constables, on each of those two days, each *per diem* five shillings ;

For each Copy of Proclamation or Notification of Election, required by law to be posted, whether in English and French, or in English only, two shillings and six pence ;

For each Commission appointing Deputy Returning Officers and an Election Clerk, two shillings and six pence ;

For each Warrant to Deputy Returning Officer to take the Poll, two shillings and six pence ;

For each Indenture, five shillings ;

For each mile actually and necessarily travelled for attending the place of Election, for posting Proclamations or Notifications, and for transmitting Commissions to Deputies, and Election Clerk, and Poll Books, six pence ;

For each Poll Book furnished to Deputies, five shillings ;

For each copy of the same, (and when such Copy is furnished by him to any Elector to be paid for by such Elector), at three pence per folio of a hundred words ;

Certain disbursements allowed.

The Returning Officer to be allowed the actual reasonable expenses incurred by him in providing Hustings or places for holding Elections, and such reasonable expenses as are incurred

in

in transmitting Poll Books and Returns to the Clerk of the Crown in Chancery.

TO EACH DEPUTY RETURNING OFFICER.

- For each day of holding the Poll, one pound ;
- 5 For the Commission appointing a Poll Clerk, two shillings and six pence ;
- For a Poll Clerk, each day, ten shillings ;
- To the Deputy and Clerk respectively, for each mile actually and necessarily travelled to and from the place of polling for the purpose of taking the oaths required by law, six pence ;
- 10 For two Constables, each *per diem*, five shillings ;
- For each mile actually and necessarily travelled for transmitting Poll Books and Returns to the Returning Officer, six pence ;
- The reasonable and actual expenses incurred in providing
- 15 Hustings or Polling places to be allowed ;
- When the attendance of any Justice of the Peace is required to administer the oaths to be taken in a public manner by the Deputy Returning Officer and Polling Clerks, such Justice of the Peace to be allowed for each mile actually and necessarily travelled by him, in going and returning, (to be charged in the account of the Returning Officer,) six pence ;
- 20 Which said fees, allowances and disbursements shall be paid over to the Returning Officer, by Warrant of the Governor, directed to the Receiver General, out of the Consolidated Revenue Fund of the Province, and shall be distributed by such Returning Officer to the several Officers and persons entitled to the same under the provisions of this Chapter, which distribution he shall report to the Governor of the Province through the Provincial Secretary thereof. 12 V. c. 27, s. 66.
- Mileage to Justices of the Peace in certain cases.
- How the said allowances shall be paid and accounted for.
- MISCELLANEOUS PROVISIONS.
- 30 90. Any person before whom it is hereby required that any oath be taken, or any affirmation made in the manner herein provided, shall administer such oath or affirmation gratuitously. 12 V. c. 27, s. 63.
- Oaths &c., under this Act to be administered gratuitously.
- 35 91. One copy of this chapter (with a copious alphabetical Index prefixed) for the Returning Officer, and one for each of his Deputies, shall be transmitted with the Writ of Election to each and every Returning Officer throughout Canada. 12 V. c. 27, s. 67.
- To whom copies of this Act shall be sent.
- 92.

Meaning of
term "Elec-
toral Divi-
sion."

92. The expression "Electoral Division" in this chapter, means any County, or other place or portion of this Province, entitled to return a Member to either House of the Provincial Parliament, unless the context shows that it applies only to an Electoral Division for the Legislative Council. 5

SCHEDULE.

1.

FORM A, REFERRED TO IN THE *thirty-second* SECTION OF THIS CHAPTER.

Proclamation of the Returning Officer fixing the time and place for the opening of the Election, and also the day for opening the Poll.

PROCLAMATION.

County (Riding, City, Town or Electoral Division *as the case is*) of _____, to wit :

Public Notice is hereby given to the Electors of the County, (*or as the fact is*) of _____, that in obedience to Her Majesty's Writ to me directed, and bearing date the _____ day of the month of _____, I require the presence of the said Electors at _____ in the Parish (*or Township, or in the City or Town*) of _____ (*here describe the place distinctly, whether the Election be for a County or for any other Electoral Division*), on the _____ day of the month of _____, at _____ o'clock in the _____ noon, for the purpose of electing a person (*or persons, as the case may be*), to represent them in the Legislative Council (*or Legislative Assembly*) of this Province; And that in case a Poll be demanded and allowed in the manner by law prescribed, such Poll will be opened on the _____ day of the month of _____, in the Parish of _____, (*or in the Township of _____ or in the _____ Ward, or in the part of the Parish of _____, or in the part of the Township of _____, as the case requires. (Here, mention each of the Parishes, Townships, Wards, parts of Parishes or Townships, in which a Polling place is to be opened and kept according to law).*) Of all which every person is hereby required to take notice and to govern himself accordingly.

Given under my hand, at _____, this _____ day of the month of _____, in the year _____

(Signature) A. B.

Returning Officer.

OATH NO. 1, REFERRED TO IN THE *thirty-second* SECTION OF THIS CHAPTER.

Oath of the Returning Officer.

I, the undersigned, A. B., Returning Officer for the County (Riding, or as the fact is) of _____, solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I am legally qualified according to law to act as Returning Officer for the said County (Riding, or as the fact is) of _____, and that I will act faithfully in that capacity, without partiality, fear, favor or affection. So help me God.

(Signature) A. B.

Returning Officer.

3.

FORM B, REFERRED TO IN THE *thirty-second* SECTION OF THIS CHAPTER.

Certificate of the Returning Officer having taken the Oath of Office.

I, the undersigned, hereby certify that on the _____ day of the month of _____, A. B., the Returning Officer for the County (or as the fact is) of _____, took and subscribed before me the Oath (or affirmation) of office in such case required of a Returning Officer by the *thirty-second* Section of the *sixth* chapter of the Consolidated Statutes of Canada.

In testimony whereof, I have delivered to him this Certificate.

(Signature) C. D.

Justice of the Peace.

4.

FORM C, REFERRED TO IN THE *thirty-third* SECTION OF THIS CHAPTER.

Commission of an Election Clerk.

To E. F. (set forth his legal addition and residence.)

Know you, that in my capacity of Returning Officer for the County (or as the fact is) of _____, I have appointed and do hereby appoint you to be my Election Clerk,

Clerk, to act in that capacity according to law at the approaching Election for the said County (*or as the fact is*) of _____, which Election will be opened by me on the day of the month of _____

Given under my hand, at _____, this _____ day of the month of _____, in the year _____

(Signature) A. B.

Returning Officer.

5.

OATH NO. 2, REFERRED TO IN THE *thirty-third* SECTION OF THIS CHAPTER.

Oath of the Election Clerk.

I, the undersigned, E. F., appointed Election Clerk for the County (*or as the fact is*) of _____, solemnly swear, (*or, if he be one of the persons permitted by law to affirm, solemnly affirm*) that I will act faithfully in my said capacity as Election Clerk, and also in that of Returning Officer, if required to act as such, according to law, without partiality, fear, favor or affection. So help me God.

(Signature) E. F.

Election Clerk.

6.

FORM D, REFERRED TO IN THE *thirty-third* SECTION OF THIS CHAPTER.

Certificate of the Election Clerk having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of the month of _____, E. F., Election Clerk for the County (*or as the fact is*) of _____, took and subscribed before me the Oath (*or affirmation*) of office required in such case of an Election Clerk, by the *thirty-third* Section of the *sixth chapter* of the Consolidated Statutes of Canada.

In

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature,) C. D.

Justice of the Peace.

or, A. B.

Returning Officer.

7.

FORM E, REFERRED TO IN THE *thirty-fourth* SECTION OF THIS CHAPTER.

Proclamation which the Returning Officer is to cause to be read, at the Hustings, on the day of the opening of the Election.

OYEZ. OYEZ. OYEZ.

All persons are commanded and strictly enjoined to keep silence while Her Majesty's Writ for the present Election is publicly read, under the pains and penalties in such case provided.

8.

FORM F, REFERRED TO IN THE *forty-fourth* SECTION OF THIS CHAPTER.

Commission of a Deputy Returning Officer.

To G. H., (*insert his legal addition and residence.*)

Know you, that in my capacity of Returning Officer for the County (*or as the fact is*) of I have appointed and do hereby appoint you to be Deputy Returning Officer, (*or one of the Deputy Returning Officers, as the fact is*) for the Parish of _____, *or,* for the Township of _____, *or,* for the _____ Ward, *or* for part of the Parish of _____, *or,* for part of the Township of _____, *as the fact is*, in the said County, (*or as the fact is*), there to take and record the Votes of the Electors according to law,

law, at the Polling place to be by you opened and kept for that purpose.

Given under my hand, at _____, this _____ day of the month of _____, in the year _____

(Signature,) A. B.

Returning Officer.

9

OATH NO. 3, REFERRED TO IN THE *forty-fourth* SECTION OF THIS CHAPTER.

Oath of Deputy Returning Officer.

I, the undersigned, G. H., appointed Deputy Returning Officer (*or, one of the Deputy Returning Officers, as the fact is*) for the Parish of _____, *or, for the* Township of _____, *or, for the* Ward, *or, for part of the Parish of* _____, *or, for part of the Township of* _____), in the County (*or as the fact is*) of _____, solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully, in my said capacity of Deputy Returning Officer, without partiality, fear, favor, or affection. So help me God.

(Signature,) G. H.

Deputy Returning Officer.

10

FORM G, REFERRED TO IN THE *forty-fourth* SECTION OF THIS CHAPTER.

Certificate of the Deputy Returning Officer (or, one of the Deputy Returning Officers, as the fact is,) having taken the Oath of Office.

I, the undersigned, hereby certify that on the _____ day of the month of _____, G. H., Deputy Returning Officer for the Parish of _____, (*or, for the Township of* _____, *or, for the Ward, or, for part of the Parish of* _____, *or, for part of the Township of* _____), in the County (*or as the fact is*) of _____, took and

and subscribed the oath (*or* affirmation) of Office required in such case of a Deputy Returning Officer, by the *forty-fourth* Section of the *sixth chapter* of the Consolidated Statutes of Canada.

In testimony whereof, I have delivered to him this Certificate under my hand.

(*Signature,*) C. D.

Justice of the Peace.

or, A. B.

Returning Officer.

FORM H, REFERRED TO IN THE *forty-ninth* AND *fiftieth* SECTIONS OF THIS CHAPTER.

Commission of a Poll Clerk.

To I. J. (*insert his legal addition and residence.*)

Know you, that in my capacity of Deputy Returning Officer (*or,* one of the Deputy Returning Officers, *as the fact is,*) for the Parish of _____, (*or,* for the Township of _____, *or,* for the _____ Ward, *or,* for part of the Parish of _____, *or,* for part of the Township of _____), in the County (Riding, City *or* Town) of _____, I have appointed and do hereby appoint you to be Poll Clerk for the said Parish of _____ (*or,* for the said Township of _____, *or,* for the said Ward, *or,* for the said part of the Parish of _____, *or,* for the said part of the Township of _____).

Given under my hand, at _____, this _____ day of the month of _____, in the year _____

(*Signature,*) G. H.

Deputy Returning Officer.

OATH NO. 4, REFERRED TO IN THE *forty-ninth* SECTION OF THIS CHAPTER.

Oath of a Poll Clerk.

I, the undersigned, I. J., appointed Poll Clerk for the Parish of _____, (or, for the Township of _____, or, for the _____ Ward, or, for part of the Parish of _____, or, for part of the Township of _____), in the County (Riding, City or Town) of _____,

do solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that I will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection. So help me God.

(Signature,) I. J.

Poll Clerk.

FORM J, REFERRED TO IN THE *forty-ninth* SECTION OF THIS CHAPTER.

Certificate of the Poll Clerk having taken the Oath.

I, the undersigned, hereby certify, that on the day of the month of _____, I. J., Poll Clerk for the Parish of _____ (or, for the Township of _____, or, for the _____ Ward, or, for part of the Parish of _____, or, for part of the Township of _____), in the County (or as the fact is) of _____, took and subscribed before me the oath (or affirmation) of office required of a Poll Clerk in such cases by the *forty-ninth* Section of the *sixth* chapter of the Consolidated Statutes of Canada.

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature,) C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer.

FORM K, REFERRED TO IN THE *forty-seventh* SECTION OF THIS CHAPTER.

Warrant of the Returning Officer to each of his Deputies, for opening and holding the Polls.

County (*or as the fact is*) of

To G. H. Deputy Returning Officer (*or, one of the Deputy Returning Officers, as the fact is,*) for the Parish of _____, *or for the* _____, *or for part of the* _____, *or for part of the* _____, in the County (*or as the fact is*) of _____, to wit :

Whereas by Her Majesty's Writ to me directed, and bearing date the _____ day of the month of _____, I am commanded to hold an election of _____ Member (*or Members*) to represent the County (*or as the fact is*) of _____ in the Parliament of this Province ; And whereas a Poll having been demanded, was granted by me according to law ; These are therefore to authorize and require you to open and hold the Poll of such Election for the Parish (*or Township or union of Townships, or Ward, or part of the Parish or Township*) aforesaid, on the _____ day of the month of _____, at nine o'clock in the forenoon, (*here, describe particularly the place at which the Poll is to be held*), and there to keep the said Poll open during the days and at the hours prescribed by law, and to take and record at the said Polling place, in a Book which you shall keep for that purpose in the manner by law provided, the votes of the Electors voting at the said Polling place, and to return to me the said Poll Book, signed with your hand and sealed with your seal, together with this Warrant, on or before the _____ day of the month of _____

Given under my hand, at _____, this _____ day of the month of _____, in the year _____

(*Signature,*) A. B.

Returning Officer.

FORM L, REFERRED TO IN THE *forty-seventh* SECTION OF THIS CHAPTER.

FORM OF A POLL BOOK.

<p>Number of the Voters.</p>	<p>NAMES OF THE VOTERS.</p>	<p>Their legal addition.</p>	<p>Their place of residence.</p>	<p>Owners.</p>	<p>Tenants or Occupants.</p>	<p>Description of Lots and Range or Concession, or otherwise, as the fact is.</p>	<p>Objections.</p>	<p>Sworn.</p>	<p>Voters refusing to take the Oath.</p>	<p>NAMES OF CANDIDATES.</p>
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FORM M

REFERRED TO IN THE *sixty-third* SECTION OF THIS CHAPTER.

Oath of the Poll Clerk after the closing of the Poll.

I, the undersigned, Poll Clerk for the Parish of _____ (or for the Township of _____, or the Union of Townships of _____, or for the _____ Ward, or for part of the Parish of _____, or for part of the Township of _____), in the County (Riding, City or Town) of _____, do solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that the Poll Book kept in and for the said Parish of _____ (or as above, as the case may require,) under the direction of A. B., who has acted as Deputy Returning Officer therein, has been so kept by me under his direction as aforesaid, correctly and to the best of my skill and judgment: and that the total number of voters polled in such Poll Book is the number of _____, whereof C. D., a Candidate, has polled _____ votes, E. F., a Candidate, has polled _____ votes (and so on, as the case may be), and that to the best of my knowledge and belief it contains a true and exact record of the votes given at the Polling Place in the said parish of _____, (or as above, as the case may be) as the said votes were taken at the said Poll by the said Deputy Returning Officer.

(Signature,) J. J.
Poll Clerk.

Sworn (or affirmed) and subscribed before me, at _____, this _____ day of the month of _____, in the year _____,

(Signature,) X. Y.
Justice of the Peace.

or

T. V.
Returning Officer.

or

A. B.
Deputy Returning Officer.

22 V. c. 82, superseding form in Schedule to 12 V. c. 27.

FORM N, REFERRED TO IN THE *sixty-third* SECTION OF THIS
CHAPTER.

*Oath of the Deputy Returning Officer after the closing of the
Poll.*

I, the undersigned, Deputy Returning Officer, (*or one of the
Deputy Returning Officers, as the case may be*) for the Parish of
(*or for the Township of* , *or for*
the Ward, *or for part of the Parish of* ,
or for part of the Township of), in the County
(*Riding, City or Town*) of , do solemnly swear,
(*or if he be one of the persons permitted by Law to affirm in civil
cases, do solemnly affirm*), that to the best of my knowledge
and belief the Poll Book kept for the said Parish of ,
(*or as aforesaid, as the case may be*) under my direction, hath
been kept so correctly : and that the total number of votes
polled in such Poll Book is the number of , whereof
C. D., a Candidate, has polled votes, E. F., a
Candidate, has polled votes, (*and so on as the
case may be*), and that to the best of my knowledge and belief,
it contains a true and exact record of the votes given at the
Polling Place in the said Parish of , (*or as above,
as the case may be*), as the said votes were taken at the said
Polling Place.

(*Signature,*) A. B.,

Deputy Returning Officer.

Sworn (*or affirmed*) and subscribed before me, at
, the day of the month of ,
in the year

(*Signature,*)

X. Y.
Justice of the Peace.

or

T. V.
Returning Officer.

or

A. B.
Deputy Returning Officer.

22 V. c. 82, *superseding form in Schedule to 12 V. c. 27.*

FORM O, REFERRED TO IN THE *sixty-seventh* SECTION OF THIS CHAPTER.

Indenture.

This Indenture, made this _____ day of _____, in the year of Our Lord, one thousand eight hundred and _____, between A. B., Returning Officer for the County (or as the fact is) of _____, in the Province of Canada, of the one part, and C. D., E. F., and G. H., Electors of the said County (or as the fact is) of _____, of the other part, witnesseth, that in obedience to Her (or His) Majesty's Writ, bearing date the _____ day of the month of _____ last (or instant,) and after the notice and formalities prescribed by law had been given and observed, they, the said C. D., E. F., G. H., and other Electors of the said County (or as the fact is) of _____, have chosen D. E., Esquire, (or D. E., and F. G., Esquires,) to represent the said County (or as the fact is) of _____, in the Legislative Council (or in the Legislative Assembly) of this Province, during the next (or present) Parliament, (or, if the election be of a Legislative Councillor, during the term by law directed); and they, the said Electors, have given and do hereby give to the said D. E. (and F. G.) ample and sufficient power for them, the said Electors and the Commons of the said County (or as the fact is) of _____, to do and consent to such matters and things as in the said Parliament, by the Common Council of the said Province, shall by the favour of God be ordained.

In testimony whereof, the said parties have to these presents made and executed in two (or in three) parts, severally set and subscribed their respective names, and affixed their respective seals on the day and in the year first above mentioned.

(Signature,) A. B., [L. S.]

Returning Officer.

Electors { C. D. [L. S.]
E. F. [L. S.]
G. H. [L. S.]

C A P . V I I .

An Act respecting controverted Parliamentary Elections.

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

I.—ELECTION PETITIONS AND THEIR RECEPTION.

What shall be deemed an Election Petition.

1. Every Petition presented to the Legislative Council or to the Legislative Assembly of this Province, within the time hereinafter for that purpose limited with respect to such Petition, and complaining of an undue election or return of a Member of the House to which the Petition is presented, to serve in Parliament,—or complaining that no return has been made according to the requisition of any Writ issued for the election of a Member of such House to serve in Parliament,—or complaining of the special matters contained in any such return,—and subscribed by some person who voted or had a right to vote at the Election to which the same relates, or by some person claiming to have had a right to be returned or elected thereat, or alleging himself to have been a Candidate at the Election,—shall be deemed an Election Petition:—And any such Petition shall be presented to, and all proceedings relative to it shall be had in that one of the said two Houses of Parliament for which the Election was held to which such Petition relates, and in construing this chapter with reference to any Election Petition, the Speaker, Members, Committees and Officers referred to shall be understood to be those of the House to which the Petition is or ought to be presented. 14, 15 V. c. 1, s. 1,—and 19, 20 V. c. 140, s. 13.

Such Petition to be presented to that House for which the election to which it relates was held.

When to be presented, if arising out of an election held in consequence of the expiration or dissolution of a Parliament.

2. In the case of every such Election Petition arising out of an Election held in consequence of the expiration or dissolution of any Parliament, such Election Petition shall be presented to the Legislative Assembly * within the first fourteen days of the Session of Parliament commencing or being held on or next after the Return Day of the Writ under which such Election was held,—provided the said House has on the last of such fourteen days, entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions ;
And

NOTE—The several sections of 14, 15 V. c. 1, referred to at the end of the several Sections of this chapter, are extended to the Legislative Council by 19, 20 V. c. 140, s. 13, and are always subject to the provisions of 20 V. c. 23, for taking Evidence more speedily in certain cases. See sections 10 and 135 to 142 of this chapter.

* NOTE—It is doubtful whether the said Act 20 V. c. 23, does or does not apply to the Legislative Council. The two acting Commissioners differing on this point, it was thought better to present the draft as it stands, leaving it to Parliament to remove the doubt. If the said Act applies to both Houses, the words "Legislative Councillor" must be inserted before the words "Legislative Assembly" in the proper places.

And if the said House in such last mentioned case has not entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented upon the first day thereafter upon which the said House has entered upon and gone through with such head or division of the said daily routine as aforesaid. 14, 15 V. c. 1, s. 2.

3. In the case of every such Election Petition arising out of any Election held otherwise than in consequence of the expiration or dissolution of any Parliament, if the day on which the Return upon such Election is brought into the office of the Clerk of the Crown in Chancery is a day on which Parliament is not in Session, or is one of the last fourteen days of any Session, then, and in every such case, such Petition shall be so presented within the first fourteen days of the Session of Parliament commencing and held next after the day on which such Return has been so brought into the office of the Clerk of the Crown in Chancery, provided the House to which the Petition is to be presented has, on the last of such last mentioned fourteen days, entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; And if the said House, in such last mentioned case, has not entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented to the proper House upon the first day thereafter upon which the said House has entered upon and gone through with such head or division of the said daily routine as aforesaid. 14, 15 V. c. 1, s. 3.

When to be presented, if arising out of an election held otherwise than in consequence of the expiration or dissolution of a Parliament—the Return being made when Parliament is not in Session, or on one of the last 14 days of a Session.

4. In the case of every Election Petition arising out of an Election held otherwise than in consequence of the expiration or dissolution of any Parliament, if the day on which the Return upon such Election is brought into the office of the Clerk of the Crown in Chancery is a day on which Parliament is in Session, but not one of the last fourteen days of any such Session, then, and in every such case, such Petition shall be so presented within the first fourteen days next after such return has been so brought into the office of the Clerk of the Crown in Chancery, provided the House to which the Petition is to be presented, has, on the last of such fourteen days, entered upon and gone through with the said head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions; And if the said House, in such last mentioned case, has not entered upon and gone through with such head or division of the said daily routine on such last day, then, and in every such case, such Petition shall be so presented upon the first day thereafter upon which the said House has entered upon and gone through with such head or division of the said daily routine as aforesaid. 14, 15 V. c. 1, s. 4.

When to be presented, if Parliament is in Session at the time of the Return, and sit 14 days afterwards.

Petition may be presented and brought up at any period of the day, as a matter of privilege.

5. Nothing herein contained shall preclude the presenting and bringing up of any such Election Petition, as a matter in which the privileges of the House are concerned, during any part of any day on which such Election Petition might be presented and brought up, according to the provisions of the next preceding three sections of this chapter, by reason merely of the routine period for presenting and bringing up such Petition for such day having passed, provided the same is so presented and brought up at a time and in the manner agreeable in other respects to the orders and practice of the House. 14, 15 V. c. 1, s. 5.

What shall not be a Session within the meaning of this Act.

6. No Session of Parliament which has not lasted for fifteen days at the least, including the day of its meeting and the day of its prorogation, shall be deemed a Session thereof within the meaning of the second, third and fourth sections of this chapter, or any of them. 14, 15 V. c. 1, s. 6.

Longer periods allowed for presenting Petitions complaining of bribery or corruption.

7. If any such Election Petition contains any allegation of bribery or corruption, with a specific allegation of any payment of money or other reward having been made by any Member, or on his account, or with his privity, since the time of the return of the Writ under which such Election was held, in pursuance or in furtherance of such bribery or corruption, then, and in every such case, twenty-eight days shall be allowed instead of fourteen days for the presenting of such Petition, which twenty-eight days shall in all such cases be reckoned from the day of such payment exclusive of such day :

2. And in all the cases in which by the five next preceding sections of this chapter, a further time is allowed beyond the fourteen days therein and thereby limited for presenting and bringing up Election Petitions not containing any such charge of bribery or corruption as aforesaid, a like further time shall be allowed beyond the said twenty-eight days herein limited for presenting and bringing up Election Petitions containing any such charge of bribery or corruption as aforesaid ;

3. And all the provisions hereinbefore contained for such purpose in the second, third, fourth and fifth sections of this chapter, shall apply as if the same had been here repeated *mutatis mutandis*, in respect of Election Petitions containing any such charge of bribery or corruption as aforesaid, and the said twenty-eight days hereby allowed for the presenting and bringing up of the same as aforesaid. 14, 15 V. c. 1, s. 7.

No Petition to be deemed an Election Petition unless presented in due time.

8. No Petition, although otherwise within the description of an Election Petition contained in the first section of this chapter, shall be deemed to be an Election Petition within the meaning of the same, unless it has been presented to the said proper House of Parliament, within the time for that purpose limited,

limited, with respect to such Petition, by the provisions contained in the six next preceding sections of this chapter. 14, 15 V. c. 1, s. 8.

9. The Petitioner may at any time after the presentation of his Election Petition, withdraw the same upon giving notice in writing under his hand or under the hand of his agent to the Speaker, and also to the sitting Member or his agent, and also to any party who has been admitted to oppose the prayer of such Petition, that it is not intended to proceed with the Petition; and in such case the Petitioner shall be liable to the payment of such costs and expenses as have been incurred by the sitting Member or other party complained of in such Petition, and also by any party admitted to oppose the prayer of such Petition, to be taxed as hereinafter provided. 14, 15 V. c. 1, s. 9.

On what conditions a Petition may be withdrawn.

10. Whenever any person intends to contest the election of any person proclaimed or returned as being elected a member of the Legislative Assembly, upon any other grounds than matters appearing upon the face of the Return or of the Poll Books or other documents of which the original or certified Copies are by law to be transmitted to the Clerk of the Crown in Chancery or kept by the Returning Officer, he shall, within fourteen days after the result of such election has been determined by the Returning Officer, give notice in writing in the manner hereinafter mentioned, to the person whose election he intends to contest, of his intention to contest the same, and in such notice he shall specify particularly the facts and circumstances upon which he intends to contest the election; And no Election Petition alleging other facts or circumstances than those stated in such notice shall be received by the Legislative Assembly except as hereinafter excepted, nor shall such Petition be received unless a copy of such notice, and affidavit of the due service thereof, by the person who made such service, be annexed to the said Petition. See note on section 2.

Whoever intends to contest the election of a member of the Legislative Assembly, on grounds not appearing on the face of the Return, &c., must give notice to such member within 14 days after election closed.

No Election Petition alleging other facts than those stated in notice, to be received.

2. But nothing in this section shall prevent the presentation or reception of an Election Petition containing allegations of bribery or corruption, under the special provisions of the seventh section, after the time limited for presenting Election Petitions in other cases has expired, or shall apply to any such Petition presented by virtue only of the said section, or shall prevent the application of the one hundred and sixty-ninth section of this chapter, in any case not provided for in this chapter; 20 V. c. 23, ss. 1, 9.

Exception as to petitions alleging bribery.

3. And the following enactments shall always be construed, subject to the provisions for taking the evidence in certain cases of controverted Elections to the Legislative Assembly, made in sections of this chapter numbered from one hundred and thirty-five to one hundred and forty-two, both inclusive, and

To be subject to previous Evidence Clauses.

and hereinafter referred to, as the "Previous Evidence Clauses." See note on section 2, on which this sub-section depends.

2.—RECOGNIZANCES.

Security for costs to be given before the Petition is presented.

11. Before any Election Petition shall be presented to either House, a Recognizance shall be entered into by one, two, three or four persons, as sureties for the person subscribing such Petition, for the sum of two hundred pounds in one sum, or in several sums of not less than fifty pounds each, for the payment of all costs and expenses which under the provisions herein contained may become payable by the person subscribing the Petition, to any witness summoned in his behalf, or to the sitting Member, or other the party complained of in such Petition, or to any party admitted to defend such Petition as hereinafter provided, or to any person who on the application of such Petitioner for the issue of a Commission to take evidence on such trial, is appointed a Commissioner for that purpose, or to any Clerk, Bailiff or other Officer employed by such Commissioner in or about, or in any way relating to the execution of the Commission issued to him in that behalf;—
 And such Recognizance may be in the form or to the like effect as is set forth in the Schedule to this chapter annexed marked A (1.) with such alterations as are necessary to adapt such form to the circumstances of the case. 14, 15 V. c. 1, s. 10.

Amount and form of Recognizance, &c.

Security for costs to be given by sitting member demanding a Commission.

12. Before any application shall be made to any Select Election Committee appointed under this chapter, on the part of any Sitting Member interested or concerned in any such Election Petition, for the issuing of a Commission to take evidence upon the trial thereof, a Recognizance shall be entered into by one, two, three or four persons, as sureties for such sitting Member, for the sum of one hundred pounds in one sum, or in several sums of not less than twenty-five pounds each, for the payment of all costs and expenses which under the provisions herein contained may become payable by such sitting Member to any Commissioner appointed for taking such evidence for such trial, or to any Clerk, Bailiff or other Officer employed by such Commissioner in or about, or in any way relating to the execution of such Commission :

Amount and form of Recognizance, &c.

Recognizance to be entered into before Speaker or Justice of the Peace, with affidavits of sufficiency of sureties.

2. Such Recognizance shall be entered into before the Speaker or a Justice of the Peace, is as herein provided with respect to other Recognizances to be entered into under this chapter, and shall be accompanied by Affidavits of the sufficiency of the sureties as is provided with respect to the same, or a deposit of money may be made in lieu of such Recognizance, or a deposit of money in lieu of some part of the amount required to be so secured, and a Recognizance for the residue thereof shall be made and entered into as is hereby provided with respect to such other Recognizance;— and such Recognizance

Recognizance may be in the form or to the like effect as is set forth in the Schedule to this chapter annexed marked A (2), with such alterations as are necessary to adapt such form to the circumstances of the case. 14, 15 V. c. 1, s. 11.

5 **13.** Any person who enters into any such Recognizance shall testify upon oath in writing, to be sworn at the time of entering into the said Recognizance, and before the same person by whom his Recognizance is taken, that he is seized or possessed of real or personal estate (or both) above what will satisfy all his just debts, of double the clear value of the sum for which he is bound by his said Recognizance;—and every such affidavit shall be endorsed upon or annexed to the Recognizance, and such Affidavit may be in the form or to the like effect as is set forth in the Schedule to this Chapter annexed marked A (4), with such alterations as are necessary to adapt such form to the circumstances of the case. 14, 15 V. c. 1, s. 12.

Parties entering into Recognizances to justify their sufficiency on oath.

14. In every such Recognizance and affidavit of sufficiency of sureties, shall be mentioned the christian and surnames in full, and the usual places of residence or business of the persons becoming sureties as aforesaid, with such other description of the sureties as may be sufficient to identify them easily. 14, 15 V. c. 1, s. 13.

Sureties to be mentioned by their names and additions.

15. Every Recognizance hereinbefore required, shall be entered into, and every Affidavit of sufficiency of sureties hereinbefore required shall be sworn, before the Speaker of the House to which the Election Petition is to be presented, or a Justice of the Peace; and the said Speaker, and also every Justice of the Peace, may take the same; And every such Recognizance and affidavit taken before a Justice, being duly certified under the hand of such Justice, shall be delivered to the said Speaker, who shall thereupon cause the same, as well as all such Recognizances and Affidavits taken before himself, to be filed in the office of the Chief Clerk of the said House, for the information of the House and its Committees, and of all parties concerned or interested in the same. 14, 15 V. c. 1, s. 14.

Recognizance to be entered into before the Speaker or Justice of the Peace.

16. Any person by whom an Election Petition is signed, or any such Sitting Member by whom an application for the issue of a Commission to take evidence as aforesaid is about to be made, may, instead of procuring a Recognizance for the amount or the full amount of the sums of two hundred pounds and one hundred pounds respectively hereinbefore required for such purpose, pay into the hands of the Chief Clerk of the House to which such Petition is presented, or to be presented, for the like purposes for which such Recognizance is hereinbefore required, either the whole or any part of such two hundred or one hundred pounds, as the case may be, which he thinks fit, not being less than fifty pounds;—and in such case such person shall,

Money may be deposited instead of giving Recognizance.

shall, if the whole of such sum be paid in, be required to find no sureties for such purpose, and if a part only of such sum be paid in, he shall then be required to find sureties for so much only of the said sum of two hundred pounds or of one hundred pounds respectively, as the sum paid into the hands of such Chief Clerk as aforesaid falls short of such Two Hundred Pounds or One Hundred Pounds, as the case may be :

How such money shall be so dealt with.

2. Every sum so paid into the hands of such Chief Clerk as aforesaid, shall be carried by him to the credit of an account to be opened by him with the Speaker of the said House by his name of office, and shall be paid out by such Chief Clerk for the time being, from time to time, in discharge of such Warrants as may from time to time be issued for that purpose upon him by the Speaker of the said House for the time being, in pursuance of the provisions of this Chapter ; and the said Chief Clerk shall preserve in his books a remembrance of the Petition upon which every such sum of money has been paid into his hands as aforesaid, as the same has been stated by the party paying in the same, and shall grant to such party a receipt or certificate for the same ;

Such money not to be deemed paid until a receipt or certificate is delivered to the Speaker.

3. No money shall be deemed, for the purposes of this Chapter, to have been paid into the hands of such Chief Clerk until such receipt or certificate is procured and delivered to the Speaker of the said House, who shall thereupon cause a copy of the same, certified under his hand, to be filed in the office of the Chief Clerk of the said House, for the information of the House and its Committees, and of all parties concerned or interested in the same, and shall thereupon re-deliver the original of such receipt or certificate with a Memorandum under his hand of the same having been delivered to him according to the provisions of this Chapter, to the party by whom the same was so delivered to him as aforesaid. 14, 15 V. c. 1, s. 15.

Petition not to be received unless the Speaker's certificate of recognizance or deposit be endorsed thereon.

17. No Election Petition shall be received unless, at the time it is presented to the House, it be endorsed with a certificate under the hand of the Speaker of the said House, that the Recognizance hereinbefore required has been entered into and received by him, with the required Affidavit of sufficiency of sureties thereunto annexed or endorsed,—or that the Chief Clerk's receipt or certificate for the amount of such Recognizance has been delivered to him,—or that a Recognizance with Affidavits of sufficiency for part, and the Chief Clerk's receipt or certificate for the residue of such amount, has been so delivered to him as aforesaid. 14, 15 V. c. 1, s. 16.

What must be certified and done before an application by sitting Mem-

18. No application shall be entertained by any Select Election Committee under this Chapter, on the part of any Sitting Member interested or concerned in any such Election Petition, for the issue of any Commission to take evidence upon such trial,

trial, unless, at the time of such application there shall be produced to such Select Committee copies,—certified under the hand of the Speaker or the Chief Clerk of the House to which the Election Petition in the case is presented, to be true copies of the same,—of the Recognizance herein required, to be entered into on behalf of such sitting Member,—of all Affidavits by which the sufficiency of the sureties in such Recognizance has been established,—or of the Chief Clerk's certificates,—or of the deposit of money in lieu of such Recognizance,—or of such Recognizances and Affidavits for any part of such amount, and of the Chief Clerk's certificates for the residue thereof, as the fact is,—together with an Affidavit from such Sitting Member that he is acquainted with the persons who have entered into such Recognizance, if any have been given as aforesaid, and that he has reason to believe, irrespective of having the same sworn to by such persons, and that he does verily believe that such persons are worth the amounts respectively stated by them in their said Affidavits of sufficiency respectively;—And every such Recognizance shall have the same requirements as to the names and description of parties and the manner of taking the same, as is hereinbefore provided with respect to the Recognizances required of Petitioners. 14, 15 V. c. 1, s. 17.

ber for a commission to take evidence can be entertained.

19. In case, at the time of any such application on the part of the sitting Member for the issue of any such Commission as aforesaid, it shall be objected on the part of the Petitioners in such Election Petition, that the sureties of such sitting Member, or any of them, are not really worth the amounts stated in their Affidavits of sufficiency respectively,—or that such Recognizance is objectionable upon similar grounds to those hereinafter mentioned in the *twenty-first* section of this Chapter, or any of them, or any other that shall appear to such Select Committee to require explanation or correction,—such Select Committee may, if upon hearing the parties they deem it just to do so, give time to such Petitioner to make good such objection, and make such orders from time to time as to the same, and as to the putting in of new Recognizances or a deposit of money in lieu thereof or part thereof, and as to the justification of the sufficiency of the persons entering into any such Recognizances,—as to such Select Committee shall appear just in the premises :

Objections to Recognizances of or on behalf of sitting member, how to be heard and disposed of.

2. And all such orders shall be binding upon the parties interested or concerned in such Election Petition, and the neglect of any party to obey the same shall be attended with such consequences in respect of the same, and the prosecution or defence of his case before such Select Committee, and the payment of costs to the party or parties inconvenienced or delayed,—which shall be taxed and recovered as hereinafter provided for the costs and expenses of prosecuting or opposing Election Petitions,—as such Election Committee thinks fit to order

Order made to bind all parties.

order and direct in that behalf ;—or the payment of such costs and expenses may be made a condition to allowing the party to proceed with his prosecution or defence if such Select Committee think fit so to order and direct ;

Proviso.

3. But, nevertheless, no such sitting Member shall obtain the benefit of any evidence taken on his behalf under any such Commission, until he has perfected the security hereby required in that behalf, either by Recognizance or deposit as hereinbefore provided, and has obtained an order of such Select Election Committee allowing the same as sufficient. 14, 15 V. c. 1, s. 18. 5

Names of sureties, &c., to be entered by the Clerk in a book.

20. On or before the day when any such Petition is presented to the House, or when notice of the intention of any sitting Member to apply to the Select Committee for the trial of such Election Petition for the issue of a Commission to take evidence upon such trial, has been served on the Petitioners,—the names and descriptions of the sureties, where there are sureties, as set forth in the Recognizance, and the amount of the Chief Clerk's receipts or certificates of deposits in lieu of the Recognizance, shall be entered in a book to be kept by the Chief Clerk of the House in his office, and the said book and also the Recognizance and Affidavits, and the Chief Clerk's said receipts or certificates, shall be open to the inspection of all parties concerned. 14, 15 V. c. 1, s. 19. 15 20

Objections to Recognizances of Petitioners may be taken by sitting member, or electors supporting his election.

21. Any sitting Member petitioned against, or any Electors petitioning and admitted parties to defend the election or return, may object to any such Recognizance on the ground that the same is invalid,—or that the same was not duly entered into or received by the Speaker, with the affidavit thereunto annexed or endorsed as hereinbefore required,—or on the ground that the sureties or any of them are insufficient,—or that a surety is dead, or that he cannot be found or ascertained for the want of a sufficient description in the Recognizance,—or that a person named in the Recognizance has not duly acknowledged the same : 30 35

Proviso : Ground of objection to be in writing by the eleventh day.

2. Provided, firstly, that the ground of objection shall be stated in writing under the hand of the objecting party or his agent, and shall be delivered to the Speaker of the House, within ten days, or not later than twelve o'clock at noon of the eleventh day after the presentation of the Petition ; 40

Proviso—in case the eleventh day is a holiday.

3. Secondly, that if such eleventh day happens to be a Sunday or other Statutory Holiday, such notice of objection may be delivered to the Speaker not later than twelve o'clock at noon of the following day, or of the first day thereafter which shall not be a Sunday or Statutory Holiday ; 45

4. And thirdly, that the Speaker shall thereupon cause the said objection to be forthwith filed in the office of the Chief Clerk of the House, for the inspection of the House and its Committees, and of all parties concerned or interested in the same. 14, 15 V. c. 1, s. 20.

Proviso: objection to be filed in Clerk's office.

22. As soon as any such statement of objection is received by the Speaker, he shall cause the Chief Clerk of the House to put up an acknowledgment thereof in some conspicuous part of his office, and shall appoint a day for hearing such objections, not less than three nor more than five days from the day on which he received such statement; and the Petitioner and his agent shall be allowed to examine and take copies of every such objection. 14, 15 V. c. 1, s. 21.

Notice of objection to be posted up.

23. At the time appointed, the Speaker shall enquire into the alleged objections, on the grounds stated in the notice of objection, but not on any other ground; And for the purpose of such enquiry, he may examine upon oath any persons tendered by either party for examination by him, and may also receive in evidence any affidavit relating to the matter in dispute before him, sworn before him, or before any Justice of the Peace;—And the said Speaker may, if he thinks fit, adjourn the said enquiry from time to time until he decides on the validity of such objection, and he may if he thinks fit, award costs to be paid by either party to the other, which costs shall be taxed and recovered as hereinafter provided for the costs and expenses of prosecuting or opposing Election Petitions: And the decision of the Speaker shall be final and conclusive against all parties. 14, 15 V. c. 1, s. 22.

Speaker to decide on objections.

24. If any surety dies and his death is stated as a ground of objection before the end of the time allowed for objecting to Recognizances, the Petitioner may pay into the hands of the Chief Clerk of the House on the account of the Speaker, the sum for which the deceased surety was bound; and upon the delivery of the receipt or certificate of the said Chief Clerk for such sum to the Speaker, within three days after the day on which the statement of such objection was delivered to the said Speaker, the Recognizances shall be deemed unobjectionable if no other ground of objection thereto be stated within the time before mentioned for stating objections to Recognizances. 14, 15 V. c. 1, s. 23.

Provision in case of death of any surety.

25. If the Speaker has received any statement of objection to the Recognizances of any such Election Petition, and has decided that such Recognizances are objectionable, he shall forthwith report to the House that such Recognizances are objectionable;—but if he has decided that such Recognizances are unobjectionable, or if he has not received any such statement of objection, then, as soon as the time hereinbefore allowed for stating any such objection has elapsed after the presentation

Speaker to report his decision to the House, and it shall be final.

presentation of the Petition, or as soon thereafter as he has decided upon the statement of objection, he shall report to the House that the Recognizances to such Petition are unobjectionable; and every such report shall be final and conclusive to all intents and purposes:—And the Chief Clerk of the House shall make out a list of all Election Petitions on which the Speaker has reported to the House that the Recognizances are unobjectionable, in which list the Petitions shall be arranged in the order in which they are so reported upon; and a copy of such list shall be kept in the office of the said Chief Clerk, and shall be open to the inspection of all parties concerned or interested in the same. 14, 15 V. c. 1, s. 24. 5 10

3.—ADMISSION OF PARTIES TO DEFEND.

Proceedings when the contested seat becomes vacant, or the sitting member declines defending it before the appointment of the Select Committee.

26. If at any time before the appointment of a Select Committee, as hereinafter provided, to try any Election Petition, the Speaker of the House to which such Petition is presented is informed by a certificate in writing, subscribed by two of the Members of such House,—of the death of any sitting Member whose election or return is complained of in such Petition,—or of the death of any Member returned upon a double return, whose election or return is complained of in such Petition,—or if the said House has resolved that the seat of any such Member has by law become vacant,—or if the House be informed by a declaration in writing, subscribed by any such Member and delivered to the Speaker within fourteen days after the day on which the Petition was presented, (whether such fourteen days or any of them occur during a Session of Parliament or during a prorogation thereof,) that it is not the intention of such Member to defend his election or return,—in every such case, notice thereof shall immediately be sent by the Speaker to the General Committee of Elections, and to the Members of the Chairmen's Panel hereinafter mentioned, and also to the Sheriff or other Returning Officer for the Electoral Division, to which such Petition relates;—and such Sheriff or other Returning Officer shall cause a true copy of such notice to be affixed in some conspicuous place in or near to the place where the nomination for such election was held;—and such notice shall also be inserted by order of the Speaker, in one of the next two Government Official Gazettes of the Province, and shall as soon as may be, be communicated by him to the House. 14, 15 V. c. 1, s. 25, *as amended by 19, 20 V. c. 140.* 15 20 25 30 35 40

27. At any time within fourteen days after the day on which any Election Petition was presented,—or within twenty-one days after the day on which any notice was inserted in the Gazette to the effect that the seat is vacant, or that the Member returned will not defend his election or return,—or if either of the said periods expire during a prorogation of Parliament, or during an adjournment of the House to which such Petition was 45 was

was presented for any period exceeding seven full days exclusive of the day of adjournment and the day of meeting according to such adjournment, and if he has not done so before, then on the first day on which the House meets after such prorogation or adjournment, provided the said House shall on such first day have entered upon and gone through with that head or division of the daily routine of the business thereof which consists in the presenting and bringing up of Petitions,— and if the said House in such last mentioned case has not entered upon and gone through with such head or division of the said daily routine of such first day, then, and in every such case, upon the first day thereafter upon which the said House has entered upon and gone through with such head or division of the said daily routine as aforesaid,—Any person who voted or had a right to vote at the Election to which the Petition relates, may petition the said House, praying to be admitted as a party to defend such return, or to oppose the prayer of such Petition; and such person shall thereupon be admitted as a party, together with the sitting Member if he be then a party, against such Petition, or in the room of such Member if he be not then a party against the Petition, and every such Petition shall be referred by the House to the General Committee of Elections hereinafter mentioned;

Voters may within a certain period Petition for leave to defend the return, or to oppose the Petition against it.

Provided, nevertheless, that nothing herein contained shall preclude the presenting or bringing up of such Petition of any such party during any part of any day on which such Petition might be presented as is provided by the fifth section of this Chapter respecting Election Petitions. 14, 15 V. c. 1, s. 26.

Proviso.

28. Whenever the Member whose election or return is so complained of in such Election Petition, has given notice as aforesaid of his intention not to defend the same, he shall not be afterwards allowed to appear or act as a party against such Petition in any proceedings thereupon, and he shall also be restrained from sitting in the House, or voting therein on any question, until such Petition has been decided upon. 14, 15 V. c. 1, s. 27.

Member declining to defend, not to sit or vote until Petition is decided upon.

29. Before any such Petition for permission to defend shall be presented to the House, a Recognizance shall be entered into on the part of such Petitioner by one, two, three or four persons as sureties for the persons subscribing such Petition, for the sum of one hundred pounds in one sum, or in several sums of not less than twenty-five pounds each, for the payment of all costs and expenses which under the provisions herein contained may become payable by the person subscribing such Petition, to any witness summoned in his behalf, or to the person subscribing the Election Petition to which such person prays permission to appear for the purpose of defence as aforesaid, or to any person who, upon the application of such first

Voters petitioning for leave to defend to give security.

Form of Recognizance.

first mentioned Petitioner for the issue of a Commission to take evidence upon the trial of such Election Petition, is appointed a Commissioner for that purpose, or to any (*Judge taking any such evidence under the "previous evidence clauses" of this chapter,*) Clerk, Bailiff or other Officer employed by such Judge or Commissioner in or about or in any way relating to the execution of the Commission issued to him in that behalf, (*or the taking of such evidence*) : See note on section 2. 5

How to be entered into.

2. And such Recognizance shall be entered into before the Speaker or a Justice of the Peace as is herein provided with respect to other Recognizances to be entered into under this chapter, and shall be accompanied by Affidavits of the sufficiency of the sureties as is provided with respect to the same, and the same may be in the form or to the like effect as is set forth in the Schedule to this Chapter annexed marked A (3), with such alterations as are necessary to adapt such form to the circumstances of the case ; or a deposit of money may be made in lieu of such Recognizance—or a deposit of money in lieu of some part of the amount required to be so secured, and a Recognizance for the residue thereof, shall be made and entered into as is hereby provided with respect to such other Recognizance, which shall be accompanied by Affidavits of sufficiency from the sureties, and an Affidavit of belief in such sufficiency made by such Petitioner for permission to defend, as is hereinbefore provided with respect to the Recognizance to be entered into on behalf of any such Sitting Member as aforesaid ; 10 15 20 25

Money may be deposited instead.

Proviso.

Provided always nevertheless, that all objections to such sureties or the manner in which they have been put in, shall be heard and disposed of by the Select Election Committee for the trial of such Election Petition, in the same manner and subject to the like powers and provisions, as well respecting costs and the payment and recovery thereof, as respecting all other matters connected with the enquiry into and allowance of the sufficiency of such sureties, as is herein provided with respect to the Recognizance hereby required to be entered into by any such Sitting Member as aforesaid. 14, 15 V. c. 1, s. 28. 30 35

Provision in case of double return, when the member petitioned against does not defend his return.

30. If in the case of an Election Petition complaining of a double return, the Member whose return is complained of in such Petition has given notice, as aforesaid, that it is not his intention to defend his return,—and if no party, within the period hereinbefore allowed for that purpose, has been admitted to defend such return,—then if there be no Election Petition complaining of the other Member returned on such double return, the last mentioned Member, or other the persons who subscribed the Petition complaining of such double return, may withdraw such Petition by letter addressed to the Speaker ; and thereupon the order for referring such Petition to the General 40 45

General Committee of Elections shall be discharged, and the House shall give the necessary directions for amending the said double return, by taking off the file the indenture by which the person so declining to defend his return was returned, or otherwise, as the case may require. 14, 15 V. c. 1, s. 29.

4.—GENERAL COMMITTEE OF ELECTIONS.

31. In the Legislative Assembly, in the first Session of every Parliament, on the first meeting of that House on or next after the fifteenth day of such Session,—and in the Legislative Council in the first Session after the Periodical Election of Councillors, on the first meeting of that House, on or next after the fifteenth day of such Session, and in either House in every other Session, as soon as convenient after the commencement of the Session,—the Speaker shall, by Warrant under his hand, appoint six Members of the House against whose return no Petition is then depending, and none of whom is a Petitioner complaining of any election or return, to be Members of a Committee to be called, “The General Committee of Elections,” and every such Warrant shall be laid on the table of the House, and if not disapproved of by the House in the course of the three next days on which the House meets for the despatch of business, shall take effect as an appointment of such General Committee. 14, 15 V. c. 1, s. 30,—and 19, 20 V. c. 140.

General Committee of elections to be named by the Speaker; how and when.

32. If the House disapproves of any such Warrant, the Speaker shall, on or before the third day on which the House meets after such disapproval, lay upon the Table of the House, a new Warrant for the appointment of six Members qualified as aforesaid, and so from time to time, until six Members have been appointed by a Warrant not disapproved by the House. 14, 15 V. c. 1, s. 31.

Nomination, how corrected, if the House disapprove of it.

33. The disapproval of the Warrant may be either general in respect of the constitution of the whole Committee, or special in respect of any Member or Members named in the Warrant. 14, 15 V. c. 1, s. 32.

Disapproval may be general or special.

34. The Speaker may, if he thinks fit, name in the second or any subsequent Warrant, any of the Members named in any former Warrant whose appointment has not been specially disapproved by the House as aforesaid. 14, 15 V. c. 1, s. 33.

Members, not disapproved, may be named again.

35. After the appointment of the General Committee, every Member appointed shall continue to be a Member of the Committee until the end of that Session of Parliament, or until he cease to be a Member of the House, or until the General Committee report that he is disabled by continued illness from attending the Committee, or until the Committee be dissolved as hereinafter provided. 14, 15 V. c. 1, s. 34.

Duration of appointment.

Vacancies to suspend the proceedings of the Committee.

36. In every case of vacancy in the General Committee of Elections, the Speaker, on the first day on which the House meets after such vacancy is known by him, shall make known the vacancy to the House, and thereupon all proceedings of the General Committee shall be suspended until the vacancy is supplied as hereinafter provided. 14, 15 V. c. 1, s. 35.

Committee may be dissolved in certain cases.

37. If the General Committee of Elections at any time reports to the House, that by reason of the continued absence of more than two of its members, or by reason of irreconcilable disagreement of opinion, the said Committee is unable to proceed in the discharge of its duties, or if the House resolves that the General Committee of Elections be dissolved, the General Committee shall be thereby forthwith dissolved. 14, 15 V. c. 1, s. 36.

Vacancies in Committee, how filled up.

38. Every appointment to supply a vacancy in the General Committee, and every re-appointment of the General Committee after the dissolution thereof, shall be made by the Speaker by Warrant under his hand, laid upon the table of the House, on or before the third day on which the House meets after the dissolution of the Committee, or notification of the vacancy, as the case requires, and the Warrant shall be subject to the disapproval of the House in the like manner as is hereinbefore provided in the case of the first Warrant for the appointment of the General Committee;—and upon any re-appointment of the General Committee, the Speaker may, if he thinks fit, re-appoint any of the Members of the former Committee not disqualified to serve on it. 14, 15 V. c. 1, s. 37.

Speaker to fix time and place of first meeting.

Members to be sworn.

39. The Speaker shall appoint the time and place of the first meeting of the General Committee of Elections, and the Committee shall meet at the time and place so appointed; but no Member shall act upon such Committee until he has been sworn at the table of the House by the Clerk, truly and faithfully to perform the duties belonging to a member of the said Committee, to the best of his judgment and ability, without fear or favour. 14, 15 V. c. 1, s. 38.

Quorum of committee, four members, —must concur for certain purposes.

40. No business shall be transacted by the General Committee of Elections, unless at the least four Members thereof be then present together; and no appointment of a Select Committee by the General Committee to be made as hereinafter provided, shall be of force, unless at the least four Members then present of the General Committee agree to the appointment. 14, 15 V. c. 1, s. 39.

Committee to regulate their own proceedings, subject to this Act.

41. Subject to the provisions of this chapter, the General Committee of Elections shall make regulations for the order and manner of conducting the business to be transacted by it. 14, 15 V. c. 1, s. 40.

42. The General Committee shall be attended by one of the Clerk of Committee; his appointment and duties.
 the Chief Clerks of the House, selected for that purpose by
 make a minute of all the proceedings of the Committee, in
 5 such form and manner as shall from time to time be directed
 by the regulations or directions of the said General Committee,
 and a copy of the minutes so kept shall be laid from time to
 time before the House. 14, 15 V. c. 1, s. 41.

43. If at the time of the dissolution or suspension of the As to proceedings pending before Committee, when dissolved or suspended.
 10 proceedings of the General Committee of Elections, there be
 any business appointed to be transacted by such General Com-
 mittee on any certain day, the Speaker may adjourn the
 transaction of such business to such other day as to him seems
 convenient. 14, 15 V. c. 1, s. 42.

5.—PANELS.

15 44. Every Member having leave of absence from the House In what cases and in what manner members may be excused from serving on Election Committees.
 shall be excused from serving on Election Committees during
 such leave; And if any Member in his place offer any other
 excuse, the substance of the allegations shall be taken down
 by the Clerk, in order that the same may be afterwards
 20 entered on the Journals, and the opinion of the House shall
 then be taken thereon; and if the House resolve that the said
 Member ought to be excused, he shall be excused from serving
 on Election Committees for such time as to the House seems fit,
 but no Member shall be so excused who does not claim to be
 25 excused before he is chosen to serve:

2. Every Member who has served on one Election Commit- Members having served during the Session.
 tee, and who, within seven days after such Committee has
 made its final report to the House, notifies to the Clerk of the
 General Committee his claim to be excused from so serving
 30 again, shall be excused during the remainder of the Session,
 unless the House at any time resolves upon the report of the
 General Committee that the number of Members who have not
 so served is insufficient; but no member shall be deemed to
 have served on an Election Committee, who, on account of
 35 inability or accident, has been excused from attending the
 same throughout. 14, 15 V. c. 1, s. 43.

45. Every Member who is a Petitioner complaining of an Members dis-qualified.
 undue election or return, or against whose return a Petition is
 depending, shall be disqualified to serve on Election Com-
 40 mittees during the continuance of such ground of disqualifica-
 tion. 14, 15 V. c. 1, s. 44.

46. The Clerk of the House shall make out an Alphabetical Clerk to make list of members, noting thereon those excused or disqualified.
 List of all the Members thereof, distinguishing in such list the
 names of every Member for the time being excused or dis-
 45 qualified, and shall also notice in the list every cause of such
 temporary

temporary excuse or disqualification, and the duration thereof;—
 And such list shall be openly read over in the House by the
 Clerk thereof, at the next meeting of the House, on or after the
 fifteenth day of the first Session of every Parliament, in the
 Legislative Assembly;—and on or after the fifteenth day of
 the first Session after the periodical Election of Members in the
 Legislative Council,—and be thereafter printed and distributed
 to the Members of the House with the printed votes of the
 House. 14, 15 V. c. 1, s. 45.

How the list
 may be cor-
 rected.

47. During three days next after the day of the openly
 reading of such list in the House as aforesaid, corrections may
 be made in such list by leave of the Speaker, if it appears that
 any name has been improperly left on or struck out of such
 list, or that there is any other error in such list. 14, 15 V.
 c. 1, s. 46.

List of Chair-
 men for Elec-
 tion Commit-
 tees to be
 made; its
 effect, &c.

48. The list finally corrected shall be referred to the Gen-
 eral Committee of Elections, and the General Committee shall
 therefrom select in their discretion four, six or eight Members
 whom they think duly qualified to serve as Chairmen of Elec-
 tion Committees, and the Members so selected shall be formed
 into a separate Panel, to be called the Chairmen's Panel which
 shall be reported to the House; and while the name of any Mem-
 ber is upon the Chairmen's Panel, he shall not be liable or quali-
 fied to serve on any Election Committee otherwise than as
 Chairman; And every Member placed on the Chairmen's
 Panel shall be bound to continue upon it till the end of the
 Session, or until he sooner ceases to be a Member of the House,
 or until by leave of the House he is discharged from continu-
 ing upon the Chairmen's Panel:

Proviso—as to
 members
 having served
 as Chairmen
 during the
 Session.

2. Provided always, that every Member of the Chairmen's
 Panel who has served on one or more Election Committees,
 and who notifies to the Clerk of the General Committee of
 Elections his claim to be discharged from continuing upon the
 Chairmen's Panel, shall be so discharged accordingly,—and
 every such Member shall be excused from serving upon any
 Election Committee, either as Chairman or otherwise, during
 the remainder of the Session, unless in either of such cases,
 the House should at any time resolve, upon the report of the
 General Committee of Elections, that the number of Members
 who have not so served is insufficient;—but no Member of the
 Chairmen's Panel shall be deemed to have served on any
 Election Committee, who, on account of inability or accident,
 has been excused from attending the same throughout. 14, 15
 V. c. 1, s. 47.

Remaining
 members to be
 divided into
 three panels.

49. After the Chairmen's Panel has been so as aforesaid
 selected, the General Committee shall divide the Members
 then remaining on such list into three Panels, in such manner
 as to them seems most convenient, but so, nevertheless, that
 each

each Panel may contain, as nearly as may be, the same number of Members; And they shall report to the House the divisions so made by them, and the Clerk shall decide by lot at the table the order of the Panels as settled by the General Committee, and shall distinguish each of them by a number denoting the order in which they were drawn; and the Panels shall then be returned to the General Committee of Elections, and shall be the Panels from which Members shall be chosen to serve on Election Committees. 14, 15 V. c. 1, s. 48.

Order of panels to be decided by lot: their purpose.

50. The General Committee of Elections shall correct the said Panels from time to time, by striking out of them the name of every Member who ceases to be a Member of the House, or who from time to time becomes entitled and claims as aforesaid to be excused from serving on Election Committees, and by inserting in one of the Panels, to be chosen by the General Committee at their discretion, the name of every new Member of the House not excused or disqualified for any of the reasons aforesaid,—and shall also from time to time distinguish in the manner aforesaid in the said Panels, the names of the Members for the time being excused or disqualified for any of the reasons aforesaid: And the General Committee shall, as often as they think fit, report to the House the Panels as corrected; and as often as the General Committee reports the said Panels to the House, they shall be printed and distributed with the votes of the House, and the names of all the Members so omitted shall be also printed and distributed with the votes. 14, 15 V. c. 1, s. 49.

General Committee to correct the panels when necessary.

51. When leave of absence for a limited time has been granted by the House to any Member, the General Committee of Elections may transfer the name of such Member from the Panel in which it has been placed to some other Panel subsequent in rotation, if they think fit to do so, having regard to the length of time for which such leave of absence has been granted, and to the number of Select Committees then about to be appointed. 14, 15 V. c. 1. s. 50.

Members obtaining leave of absence may be transferred from one panel to another.

52. Whenever any Member of the Chairmen's Panel ceases to be a Member of the House,—or is by leave of the House discharged from continuing upon the Chairmen's Panel,—or is so discharged by reason of service under the provision hereinbefore contained,—the General Committee shall forthwith select another Member to be placed upon the Chairmen's Panel in his room;—And in case it shall at any time appear to the General Committee that the Chairmen's Panel is too small, they may select one, two or three additional Members to place upon it, so nevertheless that the Chairmen's Panel shall not at any time consist of more than eleven Members without the leave of the House first obtained. 14, 15 V. c. 1, s. 51.

As to members ceasing to be such, or discharged after serving, &c.

Vacancies in members' panel, how filled.

6.—APPOINTMENT OF SELECT COMMITTEES.

Petitions to be referred to General Committee, who shall choose Select Committees to try them, &c.

53. All Election Petitions received by either House shall be referred by the House to the General Committee of Elections for the purpose of choosing Select Committees as hereinafter provided, to try such Petitions,—and the Speaker shall communicate to the House and to the General Committee, every proceeding had before him concerning the Recognizances to any Election Petition :

Speaker to communicate the necessary information as to recognizances, &c.

2. In every case in which any Election Petition is withdrawn, or the Speaker reports to the House that the Recognizances are objectionable, the order for referring such Petition to the General Committee of Elections shall be discharged, and no further proceedings shall be had upon such Petition :

Lists to be made.

3. The General Committee shall make out a list of all Petitions, in which the Speaker has reported to the House, that the Recognizances are unobjectionable, and in which the proceedings are not suspended, in which list the Petitions shall be arranged in the order in which they were so reported upon : And in every case in which the proceedings in any Petition inserted in such list are afterwards suspended, the Petition shall be struck out of the list, and shall be again inserted at the bottom of the list, at the end of such suspension of proceedings. 14, 15 V. c. 1, s. 52.

Proceedings when notice of death, vacancy of seat, or intention not to defend, are given.

54. When notice of the death or vacancy of the seat of any Member petitioned against, or that it is not the intention of such Member to defend his election or return, is given to the General Committee by the Speaker as hereinbefore provided,—the General Committee shall suspend their proceedings in the matter of the Petition referred to in such notice, until twenty-one days after the day on which notice of such death or vacancy, or intention not to defend, has been inserted in the Gazette, under the provisions hereinbefore contained ; unless the Petition of some person claiming to be admitted as a party in the room of such Member be sooner referred to them. 14, 15 V. c. 1. s. 53.

When there is more than one petition against the same return.

55. When more than one Election Petition relating to the same election or return are referred to the General Committee of Elections, they shall suspend their proceedings in the matter of all such Petitions until the report of the Speaker, respecting the Recognizance upon each of such Petitions, or such of them as have not been withdrawn, is received by them,—and upon receipt of the list of such reports, they shall place such Petitions at the bottom of the then list of Election Petitions, bracketed together, and such Petitions shall afterwards be dealt with as one Petition. 14, 15 V. c. 1, s. 54.

56. The General Committee of Elections shall choose the Committees to try the Election Petitions standing in the said list of Petitions, in the order in which the said Petitions stand in such list, and they shall from time to time determine how many Committees shall be chosen in each week for trying such Petitions, and the days on which they will meet for choosing such Committees, having regard to the number of Select Committees which may then be sitting for the trial of Election Petitions, and to the whole number of such Committees then to be appointed,—and they shall report to the House from time to time the days appointed by them for choosing such Committees. 14, 15 V. c. 1, s. 55.

Select Committees to be chosen in order of list, and to report.

57. If Parliament is prorogued after any Election Petition has been presented, but before the appointment of a Select Committee to try such Petition, the General Committee of Elections appointed in the following Session shall, within two days after their first meeting, in case the sureties have been then reported unobjectionable, appoint a day and hour for selecting a Committee to try the Petition so standing over as afore-
said :

Proceedings in case of prorogation before appointment of select Committee.

2. Provided always, that if the number of Petitions so standing over be so great that the times for selecting Committees to try the whole thereof cannot in the judgment of the General Committee be conveniently appointed within two days after their first meeting, the said General Committee shall, within two days after their first meeting, appoint the times for selecting Committees to try so many of the said Petitions as the said General Committee deems convenient, and shall afterwards from time to time, as soon as conveniently may be, appoint the times for selecting the Committees to try the remainder of such Petitions. 14, 15 V. c. 1, s. 56.

Proviso : if the number of petitions be very great

58. Notice of the time and place at which the Committee will be chosen to try any Election Petition shall be published, with the *printed* votes, not less than eight days before the day on which such Committee is appointed to be chosen ; And in case the conduct of the Returning Officer is complained of, such notice shall be sent to him through the Post not less than fourteen days before the day on which such Committee is appointed to be chosen ; And every such notice shall direct all parties interested to attend the General Committee of Elections by themselves or their agents, at the time and place appointed for choosing the Select Committee ; And if after such notice has been published with the printed votes, or sent to the Returning Officer as aforesaid, the proceedings in the matter of such Petition become suspended, notice of such suspension shall be immediately published with the printed votes, and in case the conduct of the Returning Officer is complained of, such notice shall be sent to him through the Post. 14, 15 V. c. 1, s. 57.

Notice to be given before the Select Committee is chosen in any case.

Proceedings when there is no party who defends the return.

59. If notice of the death or vacancy of the seat of any Member petitioned against, or that it is not the intention of such Member to defend his election or return, has been inserted in the Gazette by order of the Speaker as hereinbefore provided, and no party has been admitted to defend such election or return,—then if the conduct of the Returning Officer is not complained of in such Petition, it shall not be necessary to insert such Petition at the bottom of the then list of Petitions, but the General Committee of Elections shall meet for choosing the Select Committee to try such Petition, as soon as conveniently may be after the expiration of the time allowed for parties to come in to defend such election or return; And not less than one day's notice of the time and place appointed for choosing such Committee shall be given in the printed votes of the House, and in such case it shall not be necessary to deliver to the Chairman of the Select Committee for the trial of such Election Petition, a list of the voters intended to be objected to as hereinafter is required in other cases, unless the same is specially ordered by such Select Committee. 14, 15 V. c. 1, s. 58.

Day appointed for choosing Committee may be changed.

60. The General Committee of Elections may change the day and hour appointed by them for choosing a Select Committee to try any Election Petition, and appoint some subsequent, or by the consent of all parties concerned, some earlier day and hour for the same, if in their judgment it is expedient so to do, giving notice in the printed votes of the House, of the day and hour so subsequently appointed; And in every case in which any such change is made by them, they shall forthwith report the same to the House with their reasons for making such change. 14, 15 V. c. 1, s. 59.

Certain notices shall be printed with the votes.

61. Notice shall be published, with the votes, of the Petitions appointed for each calendar week reckoned from Sunday to Saturday inclusive, and of the Panel from which Committees will be chosen to try such Petitions; And each Panel shall serve for a calendar week, beginning with the Panel first drawn, and continuing by rotation in the order in which they were drawn, and not reckoning those weeks in which no Select Committee is appointed to be chosen. 14, 15 V. c. 1, s. 60.

Select Committee for trying Petition, how chosen, number, &c.

62. The General Committee shall meet at the time and place appointed for choosing the Committee to try any Election Petition, and shall choose from the Panel in service four Members not being then excused or disqualified from any of the causes aforesaid, and not specially disqualified for being appointed on the Committee to try such Petition for any of the following causes, that is to say:—by reason of having voted at the Election, or by reason of being the party on whose behalf the seat is claimed, or related to him or to the sitting Member by kindred or affinity in the first, second, third or fourth degree according to the civil law. 14, 15 V. c. 1, s. 61.

Who disqualified.

63. If at the least four Members then present of the General Committee of Elections, do not agree in choosing a Committee to try any Election Petition, the General Committee shall adjourn the choosing of that Committee and of the remaining Committees appointed to be chosen on the same day, to the following day, and the parties shall be directed to attend on the following day, and if such following day happen during an adjournment of the House, then on the day to which the House stands adjourned, and so from day to day until all such Committees are chosen, or until the General Committee of Elections is dissolved as hereinbefore provided ; And the General Committee shall not in any case proceed to choose a Committee to try an Election Petition until they have chosen a Committee to try every other Election Petition standing higher in the list aforesaid, the order for referring which has not then been discharged, except in the case when the day originally appointed for choosing a Committee has been changed under the provision hereinbefore contained. 14, 15 V. c. 1, s. 62.

Four members of General Committee must agree in the choice, otherwise the General Committee adjourn.

The choice.

64. On the day appointed by the General Committee to choose an Election Committee, the Members upon the Chairmen's Panel shall, in the manner hereinafter provided, select one of such Members to act as the Chairman of such Election Committee,—and when they have been informed by the General Committee that four Members of such Election Committee have been chosen, they shall communicate the name of the Member so selected by them to the General Committee ; but no Member shall be so elected who would be disqualified from serving on such Committee if not upon the Chairmen's Panel :

Chairman to be chosen from Chairmen's panel.

2. Provided, firstly, that if with reference to any Petition for trying which they are about to appoint a Chairman, the Members of the Chairmen's Panel receive notice from the Speaker under the provision hereinbefore contained, of the death or vacancy of the seat of the sitting Member petitioned against in such Petition, or that it is not his intention to defend his seat, they shall suspend their proceedings with regard to the appointment of a Chairman to try such Petition until the day appointed by the General Committee of Elections for selecting a Committee to try such Petition ;

Proviso : in case of notice of vacancy of seat, or non-intention to defend.

3. And provided also, secondly, that every such selection of a Chairman shall be either by the unanimous voices of all the Members of such Chairmen's Panel, or in case of the absence of any Member of such Chairmen's Panel on any such occasion, or of the dissent of the Member proposed to be selected, or of any other Member thereof, from any such proposed selection, then, and in every such case, the Chairmen's Panel, or such of them as shall be present, shall, in the presence of the parties interested or concerned in such Election Petition, their Counsel or agent, or such of them as shall attend, proceed to select

Proviso : choice of Chairman to be unanimous, or by lot.

select one of such Chairmen's Panel, by lot, to be the Chairman of such Election Committee. 14, 15 V. c. 1, s. 63.

65. Subject to the provisions of this Chapter, the Members upon the Chairmen's Panel may from time to time make such Regulations as they find convenient for securing the appointment or selection of Chairmen of Election Committees, and for distributing the duties of Chairmen among all of them. 14, 15 V. c. 1 s. 64.

Subject to this Act, the members of the Chairmen's panel may make regulations, &c.

66. As soon as the General Committee of Elections has chosen four Members of a Committee to try any Election Petition, and has received from the Members of the Chairmen's Panel the name of a Chairman to serve on such Committee, the parties in attendance shall be called in, and the names of the Members so chosen and of the Chairman shall be read over to them. 14, 15 V. c. 1, s. 65.

Parties to be called and informed of the names of Committee and Chairman.

67. After hearing the said names, the parties present shall be directed to withdraw, and the General Committee may proceed to choose another Committee to try the next Petition appointed for that day, and so on, until all the Committees appointed to be chosen on that day are chosen, or until the choosing of any Committee is adjourned as aforesaid;—And after any such adjournment, the General Committee shall not transact any more business on that day, except with regard to those Petitions for trying which Committees have been previously chosen. 14, 15 V. c. 1, s. 66.

General Committee may then proceed to next petition, &c.

68. Within one half hour at furthest from the time when the parties to any Election Petition have withdrawn,—or if the parties to any Election Petition be then before the General Committee of Elections, then after such other parties have withdrawn,—the parties in attendance shall be again called before the General Committee in the same order in which they were directed to withdraw, and the Petitioners and sitting Member, or any party admitted as aforesaid to defend the return or election, or their agents,—beginning on the part of the Petitioners,—may object to all or any of the Members chosen, or to the Chairman, as being then disqualified or excused for any of the reasons aforesaid from serving on the Committee for the trial of that Election Petition, but not for any other reason. 14, 15 V. c. 1, s. 67.

Parties may object to members, but for certain reasons only, and when.

69. If at the least four Members then present of the General Committee are satisfied that any Member so objected to is then disqualified or excused for any of the reasons aforesaid, the parties present shall be again directed to withdraw, and the General Committee shall proceed to draw from the same Panel another Committee to try that Petition;—or, if the Member to whom any such objection is substantiated is the Chairman, they shall send back his name to the Members of the Chairmen's Panel,

New Committee men or a new Chairman to be chosen if any objection be sustained.

Panel, and the Members on the Chairmen's Panel shall proceed to choose another Chairman to try that Petition, and shall communicate his name to the General Committee, and so as often as the case requires. 14, 15 V. c. 1, s. 68.

5 **70.** In the second or any following Committee, the General Committee may, if they think fit, include any of the Members previously chosen by them, to whom no objection has been substantiated, and no party shall be allowed to object to any Member included in the second or any following Committee who was not objected to when included in the Committee first chosen to try that Petition. 14, 15 V. c. 1, s. 69.

Members not objected to may be put on new committee.

15 **71.** When four Members and a Chairman have been chosen, to none of whom any objection has been substantiated, the Clerk of the General Committee of Elections shall give notice thereof in writing to each of the Members so chosen,—and with every such notice shall be sent a notice of the general and special grounds of disqualification and excuse from serving hereinbefore mentioned, and of the time and place when and where the General Committee will meet on the following day,— and notice of the time and place of such meeting shall be published with the printed votes of the House. 14, 15 V. c. 1, s. 70.

Notice to be sent to members of Select Committee, &c.

25 **72.** The General Committee shall meet on the following day at the time and place mentioned in such notice as last aforesaid;—and if any such Member then and there prove to the satisfaction of at least four Members then present of the General Committee, that for any of the reasons aforesaid, he is disqualified or excused from serving on the Committee for which he has been so chosen,—or if any such Member prove, to the satisfaction of at least four Members then present of the General Committee, that there are any circumstances in his case which render him ineligible to serve on such Select Committee,—such circumstances having regard, not to his own convenience, but solely to the impartial character of the Tribunal,—the General Committee shall proceed to choose a new Committee to try that Petition in like manner as if that Member had been objected to by any party to the Petition:— And if within the space of one quarter of an hour after the time mentioned in the notice, no Member so appear, or if any Member so appearing does not prove his disqualification or excuse to the satisfaction of at least four Members then present of the General Committee, the Select Committee shall be taken to be appointed. 14, 15 V. c. 1, s. 71.

Meeting of Committee.

Members may object to themselves as disqualified; proceedings if the objection be maintained.

35 **73.** At the meeting of the House for the despatch of business after any such Select Committee has been appointed, the General Committee of Elections shall report to the House the names of the Select Committee appointed, and shall annex to report all Petitions referred to them by the House which are to the return or election of which such Select Committee

Appointment of Select Committee to be reported to the House and printed, &c.

is appointed to try the merits, and such report shall be published with the votes. 14, 15 V. c. 1, s. 72.

Members of
Committee
to be sworn;
how and
when.

74. At or before four of the clock on the next day on which the House meets for the despatch of business after such report, the five Members chosen to be the Select Committee shall attend in their places, and shall before departing the House be sworn at the Table by the Clerk, well and truly to try the matter of the Petitions referred to them, and a true judgment to give according to the evidence,—and shall be taken to be a Select Committee legally appointed to try and determine the merits of the return of election so referred to them by the House; And the legality of such appointment shall not be called in question on any ground whatever;—And the Member so appointed from the Chairmen's Panel shall be the Chairman of such Committee; and they shall not depart the House until the time for the meeting of such Committee is fixed by the House, as hereinafter provided. 14, 15 V. c. 1, s. 73.

Members not
attending,
&c., to be
taken into
custody.

75. If any Member of the said Select Committee does not attend in his place within one hour after four of the clock on the day appointed for swearing the Committee provided the House sits so long,—or if not, then within the like time on the following day of sitting, or if, after attending, any Member depart the House before the said Committee is sworn, unless the Committee be discharged or the swearing of the said Committee be adjourned as hereinafter provided,—he shall be ordered to be taken into the custody of the Sergeant at Arms attending the House, for such neglect of his duty, and shall be otherwise punished or censured, at the discretion of the House, unless it appear to the House, by facts specially stated and verified upon oath, that such Member was by a sudden accident or by necessity prevented from attending the House. 14, 15 V. c. 1, s. 74.

Cases except-
ed.

If members
do not attend
on second day
appointed, a
new Commit-
tee to be
chosen.

76. If any such absent Member be not brought into the House within three hours after four of the clock on the day first appointed for swearing the said Committee provided the House sits so long, or if not, then within the like time on the following day of sitting, and if no sufficient cause be shown to the House before its rising whereon the House dispenses with the attendance of such absent Member, the swearing of the Committee shall be adjourned to the next meeting of the House, and all the Members of the said Committee shall attend in their places for the purpose of being sworn on the day of the next meeting of the House, in like manner as on the day first appointed for that purpose. 14, 15 V. c. 1, s. 75.

If members
do not attend
to be sworn on
second day,

77. If on the day to which the swearing of the said Committee is so adjourned, all the Members of the Committee do not attend and be sworn within one hour after four of the clock, provided

provided the House sits so long, or if not, then within the like time on the following day of sitting,---or if on the day first appointed for swearing the said Committee, sufficient cause is shewn to the House before its rising why the attendance of any Member of the Committee should be dispensed with, the said Committee shall be taken to be discharged, and the General Committee shall meet on the following day, or if such following day happen during an adjournment of the House, then on the day to which the House stands adjourned, and shall proceed to choose a new Committee from the Panel on service for the time being, in the manner hereinbefore provided ; and notice of such meeting shall be published with the votes. 14, 15 V. c. 1, s. 76.

Committee to be discharged and a new one chosen.

7. —PROCEEDINGS OF SELECT ELECTION COMMITTEES.

78. The House shall refer the Petitions in each case for which a Select Election Committee has been so reported by the General Committee of Elections, to the Select Committee appointed and sworn, and shall order the said Select Committee to meet at a certain time to be fixed by the House, which shall be within twenty-four hours of their being sworn at the table of the House, unless a Sunday or other statutory holiday intervenes ;---and the place of their meeting shall be some convenient room or place adjacent to the House properly prepared for that purpose. 14, 15 V. c. 1, s. 77.

Petitions, &c., to be referred to Committee.

Time and place of meeting.

79. Every such Select Committee shall meet at the time and place appointed for that purpose, and shall proceed to try the merits of the Election Petition so referred to them,---and they shall sit from day to day, Sundays and other statutory holidays only excepted, and shall never adjourn for a longer time than twenty-four hours, unless a Sunday or other statutory holiday intervene, and in such case not for more than twenty-four hours, exclusive of such Sunday or other statutory holiday,---without leave first obtained from the House upon motion and special cause assigned for a longer adjournment ;---And if the House be sitting at the time to which such Select Committee is adjourned, then the business of the House shall be stayed, and a motion shall be made for a further adjournment, for any time to be fixed by the House :

Committee shall try the Petition, and shall not adjourn for more than 24 hours without leave, &c.

2. Nevertheless, if such Select Committee have occasion to apply or report to the House, and the House be then adjourned for more than twenty-four hours, such Select Committee may also adjourn to the day appointed for the meeting of the House. 14, 15 V. c. 1, s. 78.

Proviso.

80. The parties complaining of or defending the election or return complained of in any Election Petition, shall,—except in the case provided for, in and by the fifty-ninth section of this chapter, or in the *Previous Evidence Clauses*,—or where otherwise

Lists of votes objected to, to be delivered and filed.

otherwise directed by order of the Select Committee, appointed to try the validity of such election,—by themselves or their agents, deliver to the Chairman of such Select Committee lists of the voters intended to be objected to, giving in the said lists the several heads of objection, and distinguishing the same against the names of the voters excepted to,—and the said Chairman shall cause such lists to be filed amongst the proceedings of such Committee, open to the inspection of all parties concerned. 14, 15 V. c. 1, s. 79. (See note on sec. 2.)

Within what time such lists must be delivered.

81. When not otherwise directed by order of such Select Committee, the said lists shall be so delivered to the said Chairman at any time before six o'clock in the afternoon of the day on which by order of the House such Select Committee has been first appointed to meet, provided the said Committee has actually met and proceeded with the case on such day, or by the like hour of the first day on which such Committee actually meets, and so proceeds with the case. 14, 15 V. c. 1, s. 80.

Select Committee may make any other order as to delivery of such lists.

82. Any such Select Committee may, by an order to be made by them for that purpose, on the first day on which they meet and proceed with the case referred to them, or on any day to which the consideration of any application for such an order shall be adjourned, require the delivery of such lists, in such other manner, at such other place, and to such other person as in their judgment is more convenient to the parties concerned, or more conducive to the ends of justice;—And any such order having been so made by such Select Committee, the said Committee may, upon the subsequent consent in writing of the parties to such Election Petition to such Committee's varying, altering or modifying such order or the directions therein contained, from time to time vary, alter or modify the directions contained in such order, either as to time, place or person, as to such Select Committee from time to time appears more convenient to the parties concerned or more conducive to the ends of justice;—And every such order made under the authority of this section shall, for information only, be reported by the said Committee to the House, by the second meeting of the House next after such order has been made by such Select Committee, with their reasons for having made the same. 14, 15 V. c. 1, s. 81.

Such order to be reported.

Evidence restricted to votes on the lists.

83. No evidence shall be given before the Select Committee, or under any Commission issued by such Committee, against the validity of any vote not included in one of the lists of voters delivered as aforesaid, or upon any head of objection to any voter included in any such list, other than one of the heads specified against him in such list. 14, 15 V. c. 1, s. 82.

Members not to be absent

84. No Member of any such Select Committee shall absent himself from the same, without leave obtained from the House, or

or an excuse allowed by the House at the next sitting thereof, without leave from the House.
 for the cause of sickness, verified upon the oath of his medical attendant, or for other special cause shewn and verified upon oath,—and in every such case the Member to whom such leave is granted or excuse allowed shall be discharged from attending and shall not be entitled again to sit or vote on such Committee ;—And such Select Committee shall never sit until all the Members to whom such leave has not been granted nor excuse allowed are met,—And in case all such Members do not meet within one hour after the time appointed for the first meeting of such Committee, or within one hour after the time to which such Committee has been adjourned, a further adjournment shall be made and reported to the House by their Chairman, with the cause thereof. 14, 15 V. c. 1, s. 83.

Committee not to sit during absence of any member without leave, &c

Report.

15 **85.** Every Member whose absence without leave or excuse is so reported shall be directed to attend the House at its next sitting, and shall then be ordered to be taken into the custody of the Sergeant at Arms attending the House, for such neglect of his duty, and shall be otherwise punished or censured at the discretion of the House, unless it appears to the House by facts specially stated and verified upon oath, that such Member was by a sudden accident or by necessity prevented from attending the said Select Committee. 14, 15 V. c. 1, s. 84.

Members absent without leave, how punishable.

25 **86.** An Election Committee shall not be dissolved by reason of the death or necessary absence of one Member or two Members thereof only,—but the remaining Members shall thenceforward constitute the Committee ;—And if there ever be occasion for electing a new Chairman on the death or necessary absence of the Chairman first appointed, the remaining Members of the Committee shall elect one of themselves to be Chairman,—and if in that election there be an equal number of voices, the Member whose name stands foremost in the list of the Committee as reported to the House, shall have 35 a second or casting vote. 14, 15 V. c. 1, s. 85.

Committee not dissolved by death, &c., of one or two members.

New Chairman in certain cases.

87. If the number of Members able to attend any such Select Committee is, by death or otherwise, unavoidably reduced to less than three, and so continue for the space of three sitting days, such Select Committee shall be dissolved, (except in the case hereinafter provided,) and another shall be appointed to try the Petition referred to such Committee ;—and the General Committee and Members of the Chairmen's Panel shall meet for that purpose as soon as conveniently may be after the occasion arises, at a day and hour to be appointed by the General Committee, and notice of such meeting shall be published with the votes ;—And all the proceedings of such former Committee shall be void and of no effect, except only any Order that may have been made by them for a Commission for the examination of witnesses and the proceedings under such

Committee reduced to less than three, to be dissolved, and another appointed.

such Order and Commission, which shall be as valid and effectual as if the dissolution of such Committee had not taken place, and shall be made use of by any other Select Committee that may be appointed to try such Election Petition, as if such Order and Commission had been made and issued under their own authority according to the provisions of this Chapter: 5

Proviso. 2. Nevertheless, if all the parties before the Committee consent thereto, the two remaining Members of the Committee or the sole remaining Member, if only one, shall continue to act and shall thenceforward constitute the Committee. 14, 15 V. c. 1, s. 86. 10

Committee may cause their room to be cleared. 88. Whenever any such Select Committee think it necessary to deliberate among themselves upon any question arising in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the Petition referred to them, as soon as they have heard the evidence and Counsel on both sides relative thereto, the room where they sit shall be cleared, if they think proper, whilst the Members of the Committee consider thereof. 14, 15 V. c. 1, s. 87. 15 20

Majority to decide.
Casting vote.
Every member must vote. 89. All questions before the Committee, if for the time being consisting of more than one Member, shall be decided by a majority of voices, and whenever the voices are equal, the Chairman shall have a second or casting voice; and no Member of the Committee shall be allowed to refrain from voting on any question on which the Committee is divided. 14, 15 V. c. 1, s. 88. 25

Yeas and nays to be recorded. 90. Whenever the Select Committee is divided upon any question, the names of the Members voting in the affirmative and in the negative, shall be entered in the Minutes of the said Committee, and shall be reported to the House, with the questions on which such divisions arose, at the same time with the final report of the Committee. 14, 15 V. c. 1, s. 89. 30

Short hand writer may be appointed on certain conditions, &c. 91. If the parties or any of them desire it, and such parties or those so desiring it make such arrangements as in the opinion of the said Committee are proper and sufficient to secure such object and the payment of the necessary expense to be incurred thereby,—the Select Committee shall be attended by a short hand writer to be appointed by the Speaker of the House and sworn by the Chairman of the said Committee faithfully and truly to take down the evidence given before such Committee, and from day to day, as occasion requires, to write or cause the same to be written in words at length for the use of the Committee. 14, 15 V. c. 1, s. 90. 35 40

92. Every such Select Committee may send for persons, papers and records, and may examine any person who subscribed the Petition which such Select Committee are appointed to try, unless it otherwise appear to such Committee that such person is an interested witness,—and they shall examine all the witnesses who come before them upon oath, which oath the Clerk attending such Select Committee may administer :

Committee may send for persons, papers, &c.

2. And if any person summoned by such Select Committee, or by the Warrant of the Speaker of the House, (which Warrants the Speaker may issue from time to time as he thinks fit,) disobeys such Summons,—or if any witness before such Select Committee gives false evidence or prevaricates, or otherwise misbehaves in giving or refusing to give evidence,—the Chairman of such Select Committee, by their direction, may, at any time during the course of their proceedings, report the same to the House for the interposition of the authority or censure of the House, as the case requires, and may by a Warrant under his hand directed to the Sergeant at Arms attending the House, or his Deputy, commit such person (not being a Member of the other House of the Provincial Parliament,) to the custody of the said Sergeant, without bail or mainprize, for any time not exceeding twenty-four hours, if the House be then sitting, and if not, then for a time not exceeding twenty-four hours after the hour to which the House stands adjourned. 14, 15 V. c. 1, s. 91.

As to witnesses refusing to attend, &c.

Misbehaving.

93. Where in this Chapter any thing is required to be verified on oath to either House of the Provincial Parliament, the Chief Clerk of such House may administer an oath for that purpose, or an Affidavit for such purpose may be sworn before any Justice of the Peace ;—And where for any incidental purpose connected with the conduct of any such trial before any such Election Committee, an Affidavit is required to be taken, to be used before such Election Committee, either by the provisions of this Chapter, or any Regulations that may be made by such General Committee of Elections for the better ordering of trials before such Election Committees,—every such Affidavit may be taken before the Chief Clerk of the House, or before the Clerk of the Select Election Committee, or before a Justice of the Peace. 14, 15 V. c. 1, s. 92.

How witnesses shall be sworn.

Affidavits received, &c.

94. Every such Select Committee shall try the merits of the return or election complained of in the Election Petition referred to them, and shall determine by a majority of voices, if for the time being consisting of more than one Member, whether the Sitting Members or either of them, or any and what other person were duly returned or elected, or whether the election be void, or whether a new Writ ought to issue ;—And such determination shall be final between the parties to all intents and purposes, and the House, on being informed thereof

What points the committee shall decide.

Decision to be final and entire thereof

tered on Journals, &c. thereof by the Committee, shall order such report to be entered on their Journals, and shall give the necessary directions for confirming or altering the Return, or for ordering a Return to be made, or for issuing a Writ for a new Election, or for carrying the said determination into execution, as the case requires. 5
14, 15 V. c. 1, s. 93.

Committee may report resolutions on other points for consideration of the House. **95.** If any such Select Committee come to any resolution other than the determination above mentioned, they shall, if they think proper, report the same to the House for their opinion, at the same time that they inform the House of such determination, and the House may confirm or disagree with such resolution, and make such orders thereon as to them seems proper : 10

Proviso. 2. Provided always, and it is hereby expressly declared, that the power conferred by this section upon the House shall not extend or be construed to extend to the order or orders, resolution or resolutions, containing or declaring such determination of such Select Committee,—or to any orders or resolutions of such Select Committee touching the delivery of lists of objected voters or the objections to such voters, the issue of Commissions for the examination of witnesses, or other matters arising in the course of the trial of such election, and relating merely to the conduct of such trial. 14, 15 V. c. 1, s. 94. 15 20

Committee not dissolved by prorogation, but shall proceed during the next session. **96.** If the Parliament be prorogued after the appointment of any Select Committee for the trial of any Election Petition, and before they have reported to the House their determination thereon, such Committee shall not be dissolved by such prorogation, but shall be thereby adjourned to twelve o'clock on the day immediately following that on which Parliament meets again for the despatch of business (Sunday and all other statutory holidays always excepted),—And all proceedings of such Committee and on any Commission to take evidence issued under the authority of such Committee, (or under the *Previous Evidence Clauses of this Chapter*,) shall be of the same force and effect as if Parliament had not been so prorogued, and such Committee shall meet on the day and hour to which they are so adjourned, and shall thenceforward continue to sit from day to day in the manner hereinbefore provided, until they have reported to the House their determination on the merits of such Petition. 14, 15 V. c. 1, s. 95. 25 30 35 40
See note on section 2.

8.—COMMISSION FOR THE EXAMINATION OF WITNESSES.

Committee may order the appointment of a Commission to take evidence. **97.** Subject always to the provisions of the said *Previous Evidence Clauses* as to Elections of Members of the Legislative Assembly,—Upon its appearing to any such Select Election Committee, from the nature of the case and the number of witnesses to be examined relative to any particular allegation or 45

or allegations in the Election Petition, that the same cannot be effectually inquired into before such Committee, without great expense and inconvenience to the parties or either of them,—the said Election Committee may, upon application of any of the parties before the said Committee, at any period during the course of their proceedings upon such Petition, make an order for the nomination and appointment of a Commission in manner herein directed. 14, 15 V. c. 1, s. 96. See note on section 2.

10 **98.** Every party intending to apply for the issue of such Commission, shall give to the opposite party or parties two full days' notice in writing exclusive of any intervening Sunday or other statutory holiday, (as on Monday for Thursday, or on Saturday for Wednesday,) of his intention to apply to the said Committee for such Commission as aforesaid. 14, 15 V. c. 1, s. 97.

Notice of application for Commission.

15 **99.** Whenever any such Select Election Committee think fit to make an order for the appointment of a Commission as aforesaid, they may if they think fit so to do, appoint such person to be such Commissioner as may be mutually agreed upon in writing by all the parties interested or concerned in such Election Petition, their Counsel or Agents, upon the written consent of such person to serve as such Commissioner, with an Affidavit of the due execution thereof, being laid before such Select Committee :

Provisions as to the appointment of a Commission.

25 **2.** Or in the event of all such parties not so agreeing as to the person to be appointed such Commissioner, or of the said Select Committee not thinking fit to appoint the person who may be so agreed upon by such parties for that purpose, the said Committee shall appoint some one of the Judges of the Circuit Court for Lower Canada, if the election has been one in Lower Canada, or some one of the County Judges of Upper Canada, if the election has been one in Upper Canada, to be such Commissioner ;

Superior Court or County Judges may be appointed.

35 **3.** Such Commissioner shall be appointed in manner herein mentioned, that is to say,—on the next sitting day of such Select Committee after the said order has been made by the said Committee, at the time previously appointed by the said Committee for that purpose, in the presence of all the parties interested or concerned in such Election Petition, their Counsel or Agents, if they choose to attend, the said Select Committee shall proceed to select from the list of Judges of the said Superior Court or County Judges, as the case requires, such person as it then appears to them most desirable to appoint as such Commissioner, and shall openly announce the name of such person for the information of the parties ;

Manner of appointment.

Objections
how heard and
disposed of.

4. Thereupon, either then or at such future day as the said Select Committee may allow for that purpose, any of such parties may submit to the consideration of the said Select Committee any grounds that he may have to urge against the appointment of such person as such Commissioner,—and in the event of such Committee being of opinion that upon the grounds so laid before them, such person ought not to be so appointed, they shall, so soon as they have come to a resolution declaratory of the same, proceed to select and announce some other of the said Judges of the said *Circuit* Court or County Judges, as the case requires, for that purpose, and in like manner to hear and dispose of any grounds of objection that the parties or any of them have to urge against the appointment of such person,—and so on until they shall have selected and announced some one of such Judges of the said Superior Court or County Judges as aforesaid against whose appointment no objection has been urged as aforesaid, or with respect to whom the objections so urged have been over-ruled by the said Select Committee; and thereupon such person shall by the said Committee be appointed to be such Commissioner;

Warrant to
issue to Com-
missioner.

5. And in all cases of such appointment, a Warrant in the nature of a Commission, under the hand and seal of the Chairman of such Select Committee, shall be issued to such Commissioner, empowering him to examine all such matters and things as shall for that purpose be referred to him by the said Select Committee, by any order made or to be made by the said Committee for that purpose, and commanding such Commissioner under the penalty of one hundred pounds, to repair to the Electoral Division in and for which the Election or Return complained of, or other subject matter of the Petition, arose or happened, on a day certain to be named in the said Warrant, and which day shall not be less than fourteen days nor more than twenty-one days distant from the day on which the said Commissioner was appointed by the said Select Committee in manner aforesaid;—And if the said Commissioner neglects or refuses to obey the injunction of the said Warrant, he shall forfeit the sum of one hundred pounds;

Form of war-
rant.

6. And every such Warrant shall be as nearly as may be in the form set forth in the Schedule to this chapter annexed marked B (1), with such alteration as is necessary to adapt such form to the circumstances of the case. 14, 15 V. c. 1, s. 98.

New commis-
sioner may be
appointed in
certain cases.

100. In every case in which any such Commissioner has been so appointed as aforesaid, the Select Committee by whom such appointment was made, or in case of their dissolution as provided for by this chapter, then the new Select Committee appointed in their stead, may, in the event of such Commissioner dying or becoming incompetent or unable to act under such Commission, supersede such Commissioner and appoint another

another as hereinbefore provided, and with similar powers ;— in every which case such new Commissioner shall have the like powers as the person first appointed, and shall complete the taking of any evidence that has been only partially taken by the former Commissioner, or take the whole anew, as by order of such Select Committee he shall be directed or required ;— And in every such case the Warrant for the appointment of such new Commissioner shall be as nearly as may be, in the form set forth in the Schedule to this chapter annexed marked B [2], with such alteration as is necessary to adapt such form to the circumstances of the case. 14, 15 V. c. 1, s. 99.

101. Every such Commissioner when engaged in the execution of the duties of his office as such Commissioner, shall have the like power and authority to commit for contempt against him and his orders, as by law is or shall be vested in the said *Circuit Court* or *County Court* respectively, for the like contempts against it or its orders, subject always nevertheless to an Appeal from the decision of such Commissioner, in every such case, to the Select Committee for the time being charged with the disposal of such Election Petition. 14, 15 V. c. 1, s. 100.

Power of a Commissioner the same as a Judge in cases of contempts.

Appeal given.

102. Upon the issue of any Commission to any Judge of the *Circuit Court* or *County Judge* appointing him a Commissioner for the examination of witnesses under this chapter, such Judge may, by an Instrument in writing under his hand and seal, name any other *County Judge* if such Judge is himself a *County Judge*, or name any other person of the degree of *Barister at Law* of that section of the Province to the judiciary of which such *Judge of the Circuit Court* or *County Judge* belongs, to sit for him as such *Judge of the Circuit Court* or *County Judge*, and in every other capacity, whether judicial or otherwise, belonging or attached to the Office of such *Judge of the Circuit Court* or *County Judge* as such Judge, during the time that such Commission for the examination of witnesses under this chapter is in force unreturned, and for twenty days after the same has been superseded or returned by the Judge to whom the same is directed.* 14, 15 V. c. 1, s. 101.

Circuit Court or *County Judge* appointed a Commissioner may appoint a proper person to act for him as Judge while he is executing the Commission.

103. Every such Instrument of nomination shall contain a recital of the Commission which has rendered such nomination necessary, and shall be executed in triplicate, one of which triplicate originals shall, by the Judge making the same, be filed in the Office of the Clerk of the *Circuit* or *County Court*, or with any Clerk of such Court if there be more than one, another of them

Instrument of appointment to be in triplicate, and where each triplicates shall be deposited, &c.

* Note.—Query—Whether the power of the Deputy would be limited in Lower Canada to the powers the Judge of the Superior Court possesses as a Judge of the *Circuit Court*? The fact that the office of *Circuit Judge* is by 20 V. c. 44, merged in that of Judge of the Superior Court, who is thus a Judge of the *Circuit Court*, though not strictly a *Circuit Judge*, creates considerable difficulty under this chapter. The Commissioners incline to think that a Deputy may be appointed to perform the *Circuit Court* duties only. The doubt should be removed.

them shall be delivered or sent to the person so named to sit for such Judge, and the third shall be transmitted to the Provincial Secretary, for the information of the Governor. 14, 15 V. c. 1, s. 102.

Governor may annul appointment and appoint another person.

104. In the case of every such nomination, the Governor may, by an Instrument under his Privy Seal, annul such nomination, and if he thinks fit so to do, may name by the same or any other Instrument under his Privy Seal, some other person legally qualified to have been named by such Judge himself, to sit for such Judge instead of the person so named by such Judge as aforesaid. 14, 15 V. c. 1, s. 103.

Powers of persons appointed to act instead of Circuit or County Judges.

105. In every such case the person so nominated to sit for such Judge shall, so long as his nomination is unannulled, and the said Commission for the examination of witnesses under this Chapter remains in force unreturned,—and for twenty days after such Commission has been either superseded or returned,—have full power and authority to sit for such Judge as such *Judge of the Circuit Court* or County Judge, and in any other capacity whether judicial or otherwise belonging or attached to the office of such *Judge of the Circuit Court* or County Judge, in all Courts and on all occasions wherein such Judge by or under his Commission as such Judge, or otherwise according to Law, may be required or have occasion to sit or hold any Court whatsoever, or any sittings or sessions of any such Court or any other Court, or otherwise, to act either singly or with others, and either at chambers or elsewhere, in the discharge of any of the duties, whether judicial or of any other character, which by the Commission of such Judge as such Circuit or County Judge belong or by law attach to his office as such *Judge of the Circuit Court* or County Judge;—And all judgments, decisions, decrees and acts pronounced, given, made or done by such person during such time, shall be as valid and effectual in law to all intents and purposes whatsoever, as if the same had been so pronounced, given made or done by such Judge himself :

Proviso.

2. Nevertheless, in all cases in which the Governor annuls any such nomination as aforesaid, all such judgments, decisions, decrees and acts pronounced, given, made or done by the person whose nomination has been so annulled previous to his receiving notice of such nomination having been so annulled, shall be and remain as valid and effectual in Law to all intents and purposes whatsoever, as if such nomination had not been so annulled as aforesaid ;

Proviso.

3. And such Judge may, notwithstanding any such nomination, whether made by himself or the Governor as aforesaid, while the same is in force and without thereby annulling or superseding the same, perform himself, if the execution of such Commission for the examination of witnesses under this Chapter does

does not prevent his doing so, either the whole or any part of the duties of his said office of Judge of the Superior Court or County Judge, as if such nomination had not been made as aforesaid. 14, 15 V. c. 1, s. 104.

5 **106.** In the case of every such nomination as aforesaid, whenever from illness of the person so nominated to sit for such Judge, or from any casualty, it happens that such person does not arrive in time, or is not able to open any Court or any sittings or sessions of any Court on the day appointed for that purpose, the Clerk or Deputy Clerk of such Court, sittings or sessions, may, after the hour of eight o'clock in the afternoon of such day, adjourn by proclamation any such Court, sittings or sessions appointed to be held on that day to an early hour on the following day, not being Sunday or statutory holiday, to be by him named, and so from day to day, adjourning over such Sundays and statutory holidays, until such person or the Judge for whom he was named to sit, arrives to open the same, or until he receives other directions from such Judge, or the person so appointed to sit for such Judge as aforesaid. 14, 15 V. c. 1, s. 105.

Power of Clerk to adjourn the Court in case of non-arrival of the person appointed to sit for the Judge.

10 **107.** Every person who has sat for any such Judge of the Circuit Court or County Judge, by virtue of any such nomination made under the authority of this Chapter, shall for every day that he has so sat for such Judge, be entitled to receive the sum of fifty shillings, and also in every case in which he is obliged to travel from the place of his usual residence to perform such duty, such further sum as will be sufficient to cover the amount of his reasonable travelling expenses in going to, remaining at, and returning from the same, the account of every such person for such service to be rendered, taxed and allowed in the same manner as other accounts for professional services rendered to the Government;—And the amount of every such account so taxed and allowed shall be paid to such person, or his personal representative, out of the Consolidated Revenue Fund of this Province, by Warrant, in the like manner as other moneys, payable out of such fund are payable by Law. 14, 15 V. c. 1, s. 106.

Allowance to person so acting for any Judge.

How paid.

15 **108.** For the taking down in writing minutes of all the proceedings of such Commissioner in executing the duties imposed upon him by this Chapter, and of all evidence given or produced before him, in as accurate a manner as may be, and for the proper and orderly conduct of his proceedings in this behalf, every such Commissioner shall have full power to appoint one or more Clerks, and such and so many Bailiffs and other Officers as he deems requisite or necessary for that purpose, subject always nevertheless to the control and direction of the said Select Committee charged for the time being with the trial and disposal of such Election Petition, and which Clerks and other Officers shall respectively take before such Commissioner

Commissioner may employ clerks and bailiffs, &c.

They shall be sworn. Commissioner the oaths set forth for that purpose in the Schedule to this Chapter annexed marked B. (4) (5.) 14, 15 V. c. 1, s. 107.

Certain persons not to be clerks, bailiffs, &c.

When objections must be made.

Such appointments to be entered on minutes.

What documents shall be transmitted to the Commissioner by the Chairman of Committee.

Committee may be adjourned during the execution of the Commission.

109. No person shall be appointed by such Commissioner under this Chapter to be a Clerk, Bailiff or other Officer to assist such Commissioner as aforesaid, who voted at the Election in question, or who has or claims any right or title to vote for the Electoral Division respecting which the Election or Return complained of, or other subject matter of such Petition arose or happened, without the consent and approbation in writing of all the parties interested or concerned in such Election Petition ;--But any objection to the appointment of such Clerk, Bailiff or other Officer, shall be made at the time of his being appointed, or at the first sitting of the Commissioners after such appointment has been made, otherwise such objection shall be invalid and of none effect, and such appointment shall be valid and effectual to all intents and purposes. 14, 15 V. c. 1. s. 108.

110. A note of the appointment of every such Clerk, Bailiff or other Officer by such Commissioner, shall be made in the minutes of such Commission, and be open at all reasonable times to the inspection of all parties interested or concerned in such Election Petition. 14, 15 V. c. 1, s. 109.

111. The Chairman of the said Select Committee shall address to the said Commissioner a true copy of the Petition which has been referred to the said Committee, and of the said lists and disputed votes and statements of the several parties which have been delivered according to the provisions of this Chapter, together with a true copy of the Order made by the said Committee, specially assigning and limiting the facts or allegations, matters and things respecting which the said Commissioner is required and directed to examine evidence and to report the same, together with all such other documents and papers as the said Select Committee shall think proper,—all which Warrants, Petitions, Orders and Papers, shall be conveyed to such Commissioner through the Post Office, in the manner hereinafter prescribed for the transmission to the proper Court of Recognizances taken and estreated, or otherwise proceeded upon under this Chapter. 14, 15 V. c. 1, s. 110.

112. Immediately after the completion of the proceedings aforesaid, the Chairman of the said Select Committee shall thereupon report the proceedings of the said Committee to the House, and shall ask permission of the House for the said Committee to adjourn until such time as the Speaker by his Warrant in manner herein mentioned, directs the said Committee to re-assemble, and upon such permission being granted, the said Committee may adjourn accordingly. 14, 15 V. c. 1, s. 111.

113. On the day appointed in and by the Warrant appointing such Commissioner, and at such place as he has appointed for that purpose, between the hours of ten in the forenoon and four in the afternoon, the Commissioner shall proceed to open his Court or commence his proceedings by reading the Warrant of the said Chairman of the said Select Committee, and also the copy of the Petition and other papers transmitted by the said Chairman :

Commissioner to open his Court at the time assigned, &c.
Proceedings.

2. The Commissioner shall, before further proceeding on the business of his said Commission, take and subscribe the oath set forth in the Schedule to this Chapter annexed, marked B (3), which said Oath the said Commissioner shall take and subscribe in the presence of the parties interested or concerned in such Election Petition, or their Agents, or such of them as attend, and the taking of the same shall be noted in the minutes of such Commission ;—And if any person acts as a Commissioner in the execution of this chapter without having first taken and subscribed such Oath, he shall for such offence forfeit and pay the sum of one hundred pounds. 14, 15 V. c. 1, s. 112.

He shall be sworn.

Penalty for acting before taking oath.

114. The said Commissioner shall sit every day, Sundays and statutory holidays only excepted, from the hour of ten in the morning till four in the afternoon, and shall never adjourn except by the consent in writing of all the parties to such Election Petition or their Agents, or by permission of the Select Committee appointed for the trial of such Election Petition, or in the case provided for by the next section, for a longer time than twenty-four hours, unless Sunday or some other statutory holiday or holidays intervene, and in case of such intervention, every sitting or adjournment shall be within twenty-four hours from the time of appointing or fixing the same, exclusive of such Sunday or other Holiday or Holidays as aforesaid. 14, 15 V. c. 1, s. 113.

Sittings of the Commissioner.

As to adjournment of such sittings.

115. The said Commissioner shall not, except as before excepted, omit such daily sittings except in cases of sudden accident or necessity, or in case of illness ; and such cases of sudden accident or necessity shall forthwith be specially reported to the said Select Committee by such Commissioner, and be verified upon the oath of the said Commissioner, and also in case of sickness by the oath of the Physician, if any there be attending such Commissioner, or if there be no Physician, in attendance, then by the oath of some third party cognizant of the fact, which oaths shall be made before one of Her Majesty's Justices of the Peace ; And any Commissioner who omits such daily sittings without such lawful excuse, shall for every day on which he shall so absent himself, forfeit and pay the sum of twenty-five pounds. 14, 15 V. c. 1, s. 114.

In case of sickness, accident, &c., report to be made to the Committee, and verified by affidavit.

Penalty for omitting to sit without lawful excuse.

116.

Proceedings to be had by the Committee on such report.

116. Upon every such Special Report from such Commissioner, the said Select Committee shall be ordered to meet as is provided upon the transmission of his final Report and Return, and the said Select Committee shall thereupon proceed to hear the parties interested or concerned in such Election Petition, or such of them as choose to attend for that purpose, their Counsel or Agent, upon such Special Report : 5

May appoint another Commissioner.

2. And if it appears to such Select Committee upon the facts laid before them upon Affidavit, either in such Special Report, or by the parties or any of them, either that the Commissioner is dead, or that he will be unable to complete the duties imposed upon him by the said Commission within a reasonable time for that purpose, such Select Committee shall proceed to supersede the same, and to appoint another Commissioner thereupon as hereinbefore provided for that purpose ; 10 15

In case of death of Commissioner, Clerk to report proceedings, &c.

3. But in the event of the death of any such Commissioner, the Clerk employed by him in keeping the minutes of his proceedings under this chapter, shall either by the consent of all the parties interested or concerned in such Election Petition, their Counsel or Agent, or by direction of such Select Committee, make a Report and Return of all the proceedings had and taken by such Commissioner, which Report and Return shall in such case be equally available for all the purposes of this chapter as if made by such Commissioner himself. 14, 15 V. c. 1, s. 115. 20 25

Commissioner to be excused in case of sickness, &c.

117. If any such Commissioner is prevented from attending at the day and place appointed as aforesaid by any sudden accident, necessity or illness, to be verified upon oath in manner herein directed, he shall not be liable to the said penalty of twenty-five pounds. 14, 15 V. c. 1, s. 116. 30

Commissioner may adjourn to other places.

118. The Commissioner may from time to time adjourn to any place within the Electoral Division in which the Election was held, different from that in which such Commissioner in the first place opened his Court or commenced his proceedings under such Warrant, in all cases where it appears to him expedient or necessary so to do. 14, 15 V. c. 1, s. 117. 35

Power of Commissioner to send for persons, papers, &c.

Other powers.

119. The Commissioner may at all times, by Warrant under his hand and seal, send for all persons, papers and records, and shall examine all witnesses who come before him, upon oath or affirmation, as the case requires, and shall examine all matters referred to him, and shall in all respects have the same powers and authorities for examining the said matters so referred to him, as Select Committees of either House of the Provincial Parliament for the trial of Election Petitions have for examining the matters and things referred to such Select Committees : 40 45

2. The said Commissioner shall proceed in examining every witness who comes before him, and in all matters and things whatsoever referred to him in the same course and manner, and according to the same rules, as Select Committees of the said Houses for the trial of Election Petitions ought and are empowered to proceed in like cases ;

Examination of witnesses.

3. The Clerk appointed by the said Commissioner shall from time to time make true copies of the minutes of all the proceedings before the said Commissioner, and of all evidence given or produced before him, and shall give one such copy to each of the parties interested, or his or their agent, or to such of them as shall demand the same, on being paid, for each folio of the said copy consisting of one hundred words, the sum of six pence ;

Clerk to make copies of evidence, minutes, &c.

15 And within ten days after the evidence before the Commissioner shall be closed, touching the matters and things referred to him, the said Commissioner shall cause copy of the Minutes of all his proceedings to be made, and shall examine the same with the said Minutes, and shall sign and seal the said copy, and shall transmit the same by his Clerk, through the Post Office, in the manner hereinafter prescribed for the transmission to the proper Court of Recognizances taken and estreated or otherwise proceeded upon under this Chapter, to the Speaker of the House to which the Election in question relates, who shall accordingly communicate the same to the said Commissioner and upon the transmission of the said copy, the said Commissioner shall adjourn in order to receive such further orders from the Select Committee upon the Petition in question, as such Committee from time to time think requisite and necessary.

Copy of minutes, signed and sealed, to be sent to the Speaker of the House.

120 The Commissioner shall not permit or suffer any Barrister or Counsel to plead before him, or to examine or cross-examine any of the witnesses, but the said Commissioner shall himself examine and cross-examine all the witnesses that shall be produced before him. 14, 15 V. c. 1, s. 119.

No Barrister or Counsel allowed to plead, &c. before Commissioner

121 In case at any time in the course of the proceedings before the Commissioner, any of the said parties tender or offer to produce to the Commissioner any witness or evidence of or concerning any matter or thing whatsoever in issue before the said Commissioner, which witness or evidence the said Commissioner is of opinion ought not to be examined, heard, or received, the said Commissioner shall state in writing the reasons and grounds upon which he has rejected the said evidence, and enter the same upon the Minutes of his proceedings, and the party tendering or offering to produce such witness or evidence, may require of the Commissioner that the said witness or evidence be examined, heard and received by and before him *de bene esse*, and the testimony of such

Evidence tendered before Commissioner may be received by him conditionally if it doubts whether it ought to be taken.

such witness or the purport of such evidence shall accordingly be taken down in writing by the Clerk to the said Commissioner, separately and apart from all other evidence before the said Commissioner, and a copy thereof, with a statement of the purpose to or for which the said witness or evidence was produced, and by whom the same was produced, shall be signed and sealed by the said Commissioner in the nature of a Bill of Exceptions to evidence, and the same shall be transmitted by the said Commissioner, together with all the other proceedings before him in manner herein mentioned :

Committee to determine as to relevancy of such evidence.

2. If the Select Committee for the trial of such Election Petition is of opinion that the tendering and offering of such witness or evidence was frivolous or vexatious, or that the testimony of such witness or the purport of such evidence was impertinent or irrelevant to the matter at issue before the Commissioner, the said Committee shall report such their opinion to the House, together with their opinion on the other matters relating to the said Petition, and the party who before the said Commissioner opposed the examining, hearing or receiving of such witness or evidence, shall be entitled to receive from the person or persons who produced such witness or evidence, the full costs and expenses which such party or parties have incurred in opposing the same, or by reason of the same being received in manner aforesaid,—which costs and expenses shall be ascertained and recovered in the same manner as by this chapter is or hereafter may be provided by law for the recovery of costs and expenses in case of frivolous or vexatious Petitions, or frivolous or vexatious opposition to such Petitions. 14, 15 V. c. 1, s. 120.

As to costs, if the evidence be rejected.

When the return of the Commissioner is received, Speaker to direct the Committee to re-assemble.

122. Within two days after the copy of the proceedings before the Commissioner are received by the Speaker of the House, the said Speaker shall issue a Warrant under his hand and seal, directing the Select Committee upon the Petition in question to re-assemble and to meet again on some day within the space of fourteen days from the date of such Warrant, provided Parliament be then sitting, and in case Parliament be not then sitting, to meet on some day within one month after the commencement of the next Session of Parliament :

Their proceedings when so re-assembled.

2. The said Select Committee shall accordingly re-assemble and meet again, and shall take the proceedings of the said Commissioner into consideration, and shall proceed to try and determine the merits of the said Petition, but such Select Committee shall not call for or receive any other or further evidence written or parole, respecting any matters or things which have been tried and examined by the said Commissioner in manner aforesaid, except when the power to do so has been specially reserved and the points to which such new evidence should be directed have been specially set forth in the order for the issue of such Commission,—but, except as

as aforesaid, the said Committee shall determine on all such matters and things from the written Minutes of the evidence and proceedings before the said Commissioner, and the Certificates of the said Commissioner so signed, sealed and transmitted as aforesaid ;

3. Provided always, that the said Committee may hear Counsel as to the effect of the said evidence in like manner as they may do respecting any other matter in question before them ; and that the said Select Committee shall report their own opinion to the House upon the whole merits of the said Election or other matter of the said Petition. 14, 15 V. c. 1, s. 121.

Effect of evidence returned.

123. If the Speaker of the House receives a copy of such proceedings when the House is adjourned for a longer period than one month from the day on which the Speaker is directed to issue his Warrant for the re-assembling and meeting of any such Committee,—then and in such case the said Speaker shall in such Warrant direct such Committee to re-assemble and meet on some day within one month next after the day to which the House is adjourned ;—and if the said Speaker has directed the Committee to meet on any day, and if the said House subsequently adjourns to a day beyond the day so appointed for the re-assembling and meeting of such Committee,—then and in such case, the said Speaker shall issue another Warrant directing such Committee to re-assemble and meet on some day within one month next after the day to which the said House is adjourned, instead of on the day first appointed in pursuance of the provisions of this chapter. 14, 15 V. c. 1, s. 122.

Provision if, when the return is received, the House is adjourned for more than one month.

124. The Speaker of the House, upon issuing any such Warrant for the re-assembling of any such Select Committee, shall cause a notice of the issue of such Warrant, and of the day therein fixed for such re-assembling, to be published in the *Canada Gazette*, and to be also inserted in the votes from thenceforth until the day so appointed for the re-assembling of such Select Committee as aforesaid. 14, 15 V. c. 1, s. 123.

Notice of such direction to re-assemble to be published.

125. And as it may be impracticable, in some instances, on account of the quantity of evidence taken under such Commission, for such Commissioner to transmit a copy of the Minutes of his proceedings to the Speaker of the House, within ten days after the evidence before him has been closed,—such Commissioner may in such cases transmit such copy with all convenient despatch, and at the same time assign the reasons for such delay, which reasons the Select Committee upon the Petition in question shall investigate, and report their opinion thereupon to the House at the time they make their report on the merits of such Petition. 14, 15 V. c. 1, s. 124.

Provision if the Commissioner cannot transmit his return within the time prescribed.

Committee
may direct
further pro-
ceedings be-
fore the Com-
missioner.

126. The Select Committee may from time to time during the continuance of any such Commission, and at any time before reporting their final opinion to the House on the merits of the Petition in question, direct any further or other Warrant to the said Commissioner, under the hand and seal of the Chairman of the said Committee, ordering and directing the said Commissioner to resume his sittings as such Commissioner for such purposes as are in the said Warrant specified, and such and the like proceedings shall be had upon such further Warrant of the Chairman of the said Committee, as are herein directed with respect to the said Warrant of the Chairman of the said Committee herein first above mentioned. 14, 15 V. c. 1, s. 125. 5 10

Committee
may send for
books, &c.,
produced be-
fore Commis-
sioner.

127. When any Select Committee re-assembles to try and determine the merits of any such Election Petition, after any proceedings have been had by or before any Commissioner appointed for examining any matters referred to him by such Select Committee, or acting under this chapter, such Select Committee may send for all or any books, papers and records, or other written documents, produced in evidence before such Commissioner, in like manner as such Select Committee might have done if no such proceedings had been had by or before such Commissioner, and without directing any Warrant to the said Commissioner, and without ordering or directing the said Commissioner to resume his sittings as aforesaid : 15 20 25

In other res-
pects to be
bound by the
provisions of
this chapter,
&c.

2. But such Select Committee shall in all other respects proceed to try the merits of such Election Petition, in the manner directed by this chapter, and shall determine on all such matters and things as have been tried and examined by the said Commissioner from the written minutes of the evidence and proceedings before the said Commissioner, and from the inspection of such books, papers, records and documents, so far only as may relate to such evidence and proceedings ; and such Select Committee shall not call for or receive in evidence any extracts from such books, papers, records or documents other than such as were received and produced before such Commissioner, nor to any point or matter not in issue before such Commissioner. 14, 15 V. c. 1, s. 126. 30 35

Commissioner
may issue
summons to
witnesses, and
when.

128. Every such Commissioner as well before as after he has held his first sitting as such, or taken the oath of Office herein prescribed for him as such Commissioner, may, by Warrant under his hand and seal, directed to any Constable, or to any of his Bailiffs in that behalf, or to any other person specially appointed by such Commissioner, summon and require the attendance of any Witness or other person before him at the day and place to be mentioned in such Warrant. 14, 15 V. c. 1, s. 127. 40 45

129. If any person so summoned as a witness as aforesaid, neglects or refuses to attend without lawful excuse to be determined by the said Commissioner, or if any witness before such Commissioner prevaricates or otherwise misbehaves in giving or refusing to give evidence, or if any person is guilty of any contempt or misbehaviour whatsoever of or towards the said Commissioner while sitting and acting as such, the said Commissioner shall, by a Warrant under his hand and seal, and directed to the Gaoler of the Common Gaol of the County, City or place in which the said Commissioner is then sitting, commit such person, not being a Member of either House of the Provincial Parliament, to the Custody of the Gaoler, without bail or mainprize, for any time not exceeding six calendar months. 14, 15 V. c. 1, s. 128.

Penalty on witness as failing to attend when summoned.

130. In case it is requisite to summon any Member of either House of Parliament then attending his duty in Parliament, to give evidence before the said Commissioner, in such case the Commissioner shall certify the same to the Speaker of the House to which the case before him relates, who shall report the same to the House for its direction thereupon. 14, 15 V. c. 1, s. 129.

As to summoning any member of Parliament.

131. Every Commissioner acting under this chapter, shall, immediately after the Select Committee on the Petition in question have made their final report to the House on the merits of the said Petition, be entitled to demand and receive from the party or parties interested or concerned in such Election Petition, upon whose application to such Select Committee such Commissioner was appointed, fifty shillings for every day which such Commissioner shall have been necessarily engaged on the said Commission, and also his travelling expenses at the rate of one shilling for every mile which such Commissioner shall have travelled from and to his usual place of abode in his attendance on the execution of such Commission :

Remuneration of Commissioner.

Travelling expenses.

2. And the Clerk to any Commissioner under this chapter shall also, upon his transmitting the said copy of such proceedings in manner aforesaid, be entitled to demand and receive from such party or parties as aforesaid, such sum or sums for his attendance on the execution of the said Commission as the said Commissioner shall under his hand certify to be reasonable, not exceeding the amount of twenty shillings for each day of his attendance on the execution of the said Commission, together with such sum for the copy of the evidence transmitted to the Speaker of the House in manner aforesaid, as the said Commissioner thinks fit, not exceeding the sum of six pence for every folio consisting of one hundred words which the said copy contains. 14, 15 V. c. 1, s. 130.

Remuneration of Clerk.

132. The Clerk appointed by any such Commissioner shall from time to time make true copies of the minutes of all proceedings

Clerk to furnish copies of minutes, &c.

proceedings before such Commissioner, and of all evidence given or produced before him, and shall give such copy to each of the parties interested, or to his or their Agent, or to such of them as demand the same, on being paid for each folio of the said copy consisting of one hundred words, the sum of six pence, 5 and no more :

Remuneration.

2. And for copies of the said Minutes and evidence to be transmitted to the Speaker of the proper House, in manner directed by this chapter, such Clerk shall receive from the party or parties interested or concerned in such Election 10 Petition, upon whose application such Commissioner was appointed or acted, such sum as the said Commissioner whose Clerk he was thinks fit, not exceeding in any case the sum of six pence for every folio consisting of one hundred words, which such copy contains, and no more. 14, 15 V. c. 1, s. 15 131.

Remuneration of Bailiffs and other Officers employed by Commissioner.

133. The Bailiffs and other Officers employed by such Commissioner in and about the execution of such Commission, shall receive from the party or parties interested or concerned in such Election Petition, the sum of ten shillings per day, 20 while in actual attendance on the sittings of such Commissioner, and at the rate of six pence per mile for every such mile travelled in performing any of the duties properly belonging to them under this chapter :

Proviso.

2. Provided nevertheless, firstly, that for the service of any 25 summons on any witness requiring him to attend before the Commissioner, such Bailiff or other Officer, unless the same be specially directed by the said Commissioner in writing under his hand to be served at the expense of all the parties interested or concerned in such Election Petition, shall be entitled to 30 receive his fees for the service thereof, only from the party who employs such Bailiff or other officer to serve the same ;

Proviso.

3. And provided also, secondly, that such Commissioner shall not require the daily attendance of any such Bailiff or other Officer upon him at the time of his holding such sittings, 35 unless he finds it necessary to do so, in every which case he shall in his Report state the grounds upon which he acted in so requiring the attendance of such Bailiff or other Officer as aforesaid. 14, 15 V. c. 1, s. 132.

Commissioner, &c., to have remedy on Recognizance.

134. Every such Commissioner and Clerk, Bailiff or other 40 Officer, shall have the like remedy upon the Recognizance required to be entered into by every Petitioner under this Chapter, for their services in the execution of such Commission as is hereby given to any persons summoned as witnesses 45 by such Petitioner. 14, 15 V. c. 1, s. 133.

9. — PREVIOUS NOTICE AND EVIDENCE IN CASES MENTIONED IN SECTION X.

135. No select Committee of the Legislative Assembly constituted under this chapter, shall take into consideration any facts or circumstances touching which notice is hereby required to be given, in the manner prescribed by the tenth section of this chapter, unless they are stated in such notice. 20 V. c. 23, s. 1—part. As to sections 135 to 142, both inclusive, See note on section 2.

Nothing to be taken into consideration except stated in the notice.

136. The member upon whom the notice mentioned in the said tenth section is served, may, within fourteen days after the service thereof, answer such notice, admitting or denying the facts and circumstances alleged therein respectively,—and may in such answer set forth any other facts and circumstances not appearing upon the face of the Return or of the Poll Books or such documents as are mentioned in the said tenth section, upon which he rests the validity of his election,—and shall serve a copy of his answer upon the contesting party in the manner hereinafter mentioned :

Member to answer such notice specially within 14 days, and what such answer shall contain, &c.

2. Such member shall not be permitted to give evidence of any facts or circumstances other than those he has alleged in his said answer ; and the service of such answer shall be proved to the Judge before whom the evidence is to be taken, by producing a copy thereof with the affidavit of service in the manner hereinafter mentioned :

Service of answer.

3. And if such Member serves no answer within the time hereinbefore mentioned, he shall not be permitted to prove any facts or circumstances on his behalf, other than by way of rebutting the case made against his election. 20 V. c. 23, s. 2.

Failing to answer, he shall adduce evidence in rebuttal only.

137. The service of such notice and of the answer thereto shall be made by delivering a copy of the said notice or answer to the party to be served, in person, or by leaving the same at his residence with some grown up person of his family, and may be made by any literate person, and shall be proved by affidavit sworn to before some Justice of the Peace or Commissioner for taking affidavits, in which shall be stated the time, place and manner of such service ;—And if there be more than one contesting party joining in the notice to the member proclaimed or returned, then such notice shall state some place at which the answer of the member elect may be served on all the contesting parties by leaving one copy only of such answer at such place for all of them ; and if such notice contains no such statement, it shall be void, and deemed not to have been given. 20 V. c. 23, s. 3.

Service, how made.
Notice by more than one contestant must contain election of one domicile at which all may be served with answer, &c.

138. In case any of the parties is desirous of taking the evidence respecting the facts and circumstances alleged in such

Application to a County or such

Superior Court Judge to take evidence on facts alleged in notice and answer.

Judge to appoint time for proceeding.

When the application must be made.

Copy of intended Election Petition to accompany application with copy of notice and answer and recognizance and affidavits, &c.

Application not receivable if not made within a certain time.

Recognizance to be held to refer to the petition filed; and no other petition to be received by Legislative Assembly.

such notice or answer, it shall be lawful for him to make application in writing to the Judge of the County Court in Upper Canada, or to a Judge of the Circuit Court in Lower Canada, residing or having jurisdiction within the Electoral Division or in the district in which such controverted Election was held, requiring him to take the evidence upon all matters of facts mentioned in the notice of the said contesting party, and in the answer (if any) made by the party who has been declared elected; And the said Judge shall forthwith appoint a time and place for proceeding therein, of which due notice shall be given, at least six days before proceeding therein, to the opposite party :

2. But such application on behalf of the contesting party shall not be received by any such Judge as aforesaid, unless it is made within six days from the time when the answer of the returned Member has been served on such contesting party, or within six days from the expiration of the time allowed for serving such answer if none be served within the said time,—nor unless at the time of such application such contesting party produces and files with such Judge a copy of his intended Petition against such election, and a copy of the said notice sworn to by the person who served the same, and a copy of the answer, if any, and if no answer, then with an affidavit denying that any answer has been served, together with a recognizance and the affidavit or affidavits of sufficiency on the part of the sureties, required by this chapter, of persons presenting Election Petitions; and the application shall be held void if the contesting party wilfully omits to file the notice in answer (if any) of the Member elected or returned ;

3. And such application shall not be received on the part of the Member who has been declared elected, by any such Judge, unless made within six days after the service of the answer to the contesting party's notice,—nor unless at the time of making such application the said Member produces to such Judge a copy of the notice served on him, and his answer thereto, together with an affidavit of the service of such answer, and also a recognizance and affidavits of the sufficiency of the sureties as required by section twelve of this chapter, from the sitting member demanding the issue of a commission for the examination of witnesses. 20 V. c. 23, s. 4, as amended by 20 V. c. 44, abolishing the Office of Circuit Judge in L. C.

139. The said recognizance on behalf of the contesting party shall be held to refer to the Petition to be presented to the Legislative Assembly of which the copy has been filed with the Judge as aforesaid, and to no other;—And no other or different Petition shall be received by the Legislative Assembly in the case; and unless such copy of the intended Petition is so filed, the application shall not be deemed to be validly made, and shall be void :

2. In the condition of such recognizance as aforesaid, the word "Commissioner" shall include and apply to the Judge to whom such application as aforesaid is made, as well as to any Commissioner appointed by a Select Election Committee under this Chapter ; and such recognizance shall avail and be estreated or enforced accordingly, in default of payment by the contesting party of any costs incurred by reason of such application as aforesaid, whether such contesting party does or does not petition against the return of the member so elected or otherwise ;

Effect of recognizance, and how dealt with.

3. And such recognizance and copy of Petition as aforesaid shall, by the Judge to whom such application is made, be forthwith transmitted by mail to the Chief Clerk of the Legislative Assembly, to be by him kept among the records of his office ; And for the purposes of this chapter the recognizance shall be annexed to the Petition when presented, and shall avail accordingly. 20 V. c. 23, s. 5.

Recognizance to be annexed to petition.

140. So soon as the said application has been validly made as aforesaid, the Judge so applied to shall be deemed, to all intents and purposes, a Commissioner for inquiring into, examining and taking evidence upon all the matters of fact and circumstances mentioned in the notice of the said contesting party, and the answer (if any) of the returned Member,—and shall take and cause to be taken by those whom he employs as Clerks or Bailiffs, the oath of office in the Schedule to this Chapter contained, varying the words thereof so as to meet the circumstances of the case :

Judge to whom the application is made, to have the like powers and duties as if appointed Commissioner of a select Election Committee.

2. And it shall be the duty of the said Judges, respectively, to take upon them the duties imposed by this Chapter, and they shall then have all the powers and rights including remuneration for their services and the right of appointing Deputies to act for them as such Judges while engaged in consequence of such application, and shall perform all the duties and be subject to all the liabilities assigned by this Chapter to persons appointed Commissioners to take evidence relative to any controverted election,—saving only that their powers shall be limited to the questions of fact set forth in the notice of the contesting party, and the answer if any of the returned member, and the questions concerning the validity of the recognizance, if it be objected to ;

Judges bound to act as commissioners.

3. And the Select Committee appointed to try the Election in question may deal with any such Judge as if he had been appointed Commissioner by them, and in case of his death or incapacity, from sickness or other unavoidable cause, to act at any time, may proceed as if he had been so appointed by them to take evidence as to the facts aforesaid. 20 V. c. 23, s. 6.

Control of Select Committee over the Judge.

Evidence to be transmitted to the Clerk of the Legislative Assembly, its effect.

141. The evidence taken by any such Judge shall be transmitted by him in the manner prescribed by this Chapter as to evidence taken before a Commissioner, to the Clerk of the Legislative Assembly, to be by him laid before the Select Committee for trying the election in question, when such Committee is appointed, with whom it shall avail for the like purpose as if such Judge had been appointed by such Committee to be a Commissioner for taking such evidence. 20 V. c. 23, s. 7.

Proceedings until the evidence is received.

142. If at the time the Select Committee is appointed, the said evidence and proceedings has not been received by the Clerk, the Committee may proceed with any other matters incident to the contest and not inconsistent with this Chapter, or if there be no such matter, shall adjourn until the said evidence and proceedings are received, and shall then be directed to re-assemble in the manner provided by this Chapter in like cases. 20 V. c. 23, s. 8.

10.—costs.

As to costs on frivolous or vexatious petition.

143. Whenever any Select Committee appointed to try any Election Petition reports to the House that such Petition was frivolous or vexatious, the parties, if any, who have appeared before the Committee in opposition to such Petition, shall be entitled to recover from the persons, or any of them, who signed such Petition, the full costs and expenses which such parties have incurred in opposing the same, such costs and expenses to be ascertained in the manner hereinafter directed. 14, 15 V. c. 1, s. 134.

As to costs on frivolous or vexatious opposition.

144. Whenever such Committee reports to the House that the opposition made to any such Petition by any party appearing before them was frivolous or vexatious, the persons who signed such Petition shall be entitled to recover from the party with respect to whom such report is made, the full costs and expenses which such Petitioners have incurred in prosecuting their Petition; such costs and expenses to be ascertained in the manner hereinafter directed. 14, 15 V. c. 1, s. 135.

As to costs where there is no opposition.

145. Whenever no party has appeared before any such Committee in opposition to such Petition, and such Committee reports to the House that the election or return, or the omission or insufficiency of a return complained of in such Petition was vexatious or corrupt, the persons who signed such Petition shall be entitled to recover from the Sitting Member, (if any) whose election or return is complained of in such Petition, such sitting Member not having given notice as aforesaid of his intention not to defend the same) or from any other persons admitted by the House as aforesaid to oppose such Petition, the full costs and expenses which such Petitioners have incurred in prosecuting their Petition: such costs and expenses to

to be ascertained in the manner hereinafter directed. 14, 15 V. c. 1, s. 136.

146. If any ground of objection be stated against any voter in any list of voters intended to be objected to as hereinbefore provided, or in any notice under the *Previous Evidence Clauses* aforesaid, and if such Select Committee are of opinion that such objection was frivolous or vexatious, they shall report the same to the House, together with their opinion on the other matters relating to the said Petition, and the opposite party shall in such case be entitled to recover from the party on whose behalf any such objections were made, the full costs and expenses incurred by reason of such frivolous or vexatious objections; such costs and expenses to be ascertained in the manner hereinafter directed. 14, 15 V. c. 1, s. 137.

As to costs on frivolous or vexatious objections.

147. If either party makes before the said Select Committee or in any notice under the said *Previous Evidence Clauses*, any specific allegation with regard to the conduct of the other party or his Agents, and either brings no evidence in support thereof, or such evidence that the Committee is of opinion that such allegation was made without any reasonable or probable ground, the Committee may make such orders as to them may seem fit for the payment by the party making such unfounded allegation to the other party, of all costs and expenses incurred by reason of such unfounded allegation; such costs and expenses to be ascertained in the manner hereinafter directed. 14, 15 V. c. 1, s. 138.

As to costs on unfounded allegations.

148. The costs and expenses adjudged by any such Select Committee as aforesaid, to be paid, or which otherwise may become payable under the provisions of this chapter, to any party prosecuting or opposing or preparing to oppose any Election Petition, or to any witness summoned to attend before any Committee, under the provisions of this chapter, shall be ascertained in manner following, that is to say:

How the costs and expenses payable under this Act shall be ascertained.

On application made to the Speaker of the House to which such Petition relates, by any such petitioner, party or witness, for ascertaining such costs and expenses, not later than three calendar months after the determination of the merits of such Petition, or after any Order of the House for discharging the order of reference of such Petition to the General Committee of Elections, or after the withdrawal of any Petition, as hereinbefore provided,—the Speaker shall make an order that the same be taxed, and shall proceed to examine and tax such costs and expenses, and shall report the amount thereof, together with the name of the party liable to pay the same, and the name of the party entitled to receive the same, to the House,—and shall also, upon application made to him, deliver to the party a certificate signed by him, expressing the amount of the costs and expenses allowed in such Report, with the name of the party liable

Speaker's certificate to be conclusive evidence of costs.

liable to pay the same, and the name of the party entitled to receive the same, and such Certificate so signed by the Speaker shall be conclusive evidence for all purposes whatever, as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof; and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same. 14, 15 V. c. 1, s. 139. 5

Speaker may examine persons on oath as to costs.

149. The Speaker may examine upon oath any party claiming any such costs or expenses, and any witnesses tendered to him for examination, and may receive affidavits, sworn before himself, or before any Justice of the Peace, relative to such costs and expenses. 14, 15 V. c. 1, s. 140. 10

In what manner costs may be recovered.

150. The party entitled to such taxed costs and expenses, or his or her personal representatives, may demand the whole amount thereof so certified as above, from any one or more of the persons liable to the payment thereof, and in case of non-payment thereof on demand, may recover the same by action of debt in any of Her Majesty's Courts which would have jurisdiction over the same, were it an ordinary debt of a similar amount,—in which action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the sum mentioned in the said certificate,—and the said Plaintiff shall, upon filing the said declaration, together with the said certificate and affidavit of such demand as aforesaid, be at liberty to sign judgment as for want of a plea by *nil dixit* or otherwise, according to the course of the Court in which the action shall be pending, or to have judgment entered or rendered in his favor according to the same, and take out execution for the said sum so mentioned in the said certificate, together with the costs of the said action according to due course of law : 15 20 25 30

Proviso.

2. But the validity of such certificate (the handwriting of the Speaker thereunto being duly verified,) shall not be called in question in any Court ; 35

Proviso.

3. And the party so impleaded may, if he thinks fit, put in any defence that he may have to such action, according to law and the practice of such Court. 14, 15 V. c. 1, s. 141.

Parties may recover from those jointly liable with them.

151. In every case it shall be lawful for any person from whom the amount of such cost and expenses has been so recovered, to recover in like manner from the other persons, or any of them (if such there be) who are liable to the payment of the same costs and expenses, a proportionate share thereof according to the number of persons so liable, and according to the extent of the liability of each person. 14, 15 V. c. 1, s. 142. 40 45

152.

152. If any person having subscribed an Election Petition under this chapter, or any sitting Member, or any Petitioner admitted to defend such Petition instead of such sitting Member, neglects or refuses for the space of seven days after demand to pay to any witness summoned on his behalf before any select Election Committee appointed under the provisions of this chapter, or before any Judge or Commissioner for taking evidence under this chapter, the sum so certified as aforesaid by the Speaker under the authority of this chapter to be due to such witness,—or if such Petitioner or other party neglects or refuses for the space of six months after demand, to pay to any party opponent to him upon the trial of such Petition the sum so certified by the Speaker as aforesaid to be due to such party for his costs and expenses,—and if such neglect or refusal is, within one year after the granting of such certificate, proved to the Speaker's satisfaction by Affidavit sworn before the said Speaker or before a Justice of the Peace,—in every such case every person who has entered into a Recognizance on behalf of such Petitioner or other party, relating to such Petition under the provisions of this chapter, shall be held to have made default in his said Recognizance, and the Speaker of the House to which such Petition related, shall thereupon certify such Recognizance into the Superior Court for Lower Canada, if such Recognizance has been taken in Lower Canada, or into the Court of Queen's Bench or Common Pleas for Upper Canada, if such Recognizance has been taken in Upper Canada, and shall also certify that such person has made default therein :

Recognizances to be estreated, if costs be not paid within certain periods.

2. Such certificate shall be conclusive evidence of the validity of such Recognizance and of such default, and the Recognizance, being so certified, shall be delivered by the Clerk of the House, or some person deputed by him for that purpose, into the hands of the Chief Justice, or one of the Judges of the Court into which the same shall be so certified by the said Speaker, or some officer of such Court appointed by such Court to receive the same, or shall be transmitted by such Clerk through the Post in manner hereinafter mentioned, to the Chief Justice or other Judge of such Court as the case requires,—and in every such case such delivery or transmission of such Recognizance shall have the same effect as if the same were treated or otherwise proceeded upon for the like purpose from a Court of Law, according to the Laws of that section of the Province in which such Recognizance was so taken as aforesaid, and the course of the Court to which the same has been so transmitted as aforesaid, and the validity of such certificate (the handwriting of the Speaker thereunto being duly verified,) shall not be called in question in any such Court upon the ground of any matter to which had arisen anterior to the date of such certificate. 14, 15 V. c. 1, s. 143.

Effect of the Speaker's certificate, &c.

Provision for the transmission of Recognizance by post.

153. For the purpose of transmitting any such Recognizance through the Post as aforesaid, the Clerk of the House, or some other person appointed by the Speaker for that purpose, shall carry such Recognizance under a cover directed to the Chief Justice, or one of the Judges of the Court into which the same is so certified as aforesaid, to the General Post Office of the place where such Recognizance then is with the other Records of the said House, and there deliver the same to the Post Master or Deputy Post Master of such place for the time being, or to the person discharging the duties of such Post Master or Deputy Post Master therein for the time being, who, on receipt thereof, shall give an acknowledgment in writing of such receipt to the person from whom the same is received, and shall keep a duplicate of such acknowledgment signed by the parties respectively to whom the same is so delivered :

Post Master to despatch every such Recognizance by the first mail after receipt thereof.

2. The said Post Master or Deputy Post Master, or person performing the duties of such Post Master or Deputy Post Master, shall despatch every such Recognizance by the first Post or Mail after the receipt thereof, to the person to whom the same is directed, accompanied with proper directions to the Post Master or Deputy Post Master of the town or place to which the same is directed, or person performing the duties of such Post Master or Deputy Post Master at such place for the time being, requiring him forthwith to carry such Recognizance, and to deliver the same to the person to whom the same is directed, who or some officer appointed by the Court for that purpose shall give such Post Master or Deputy Post Master, or person performing the duties of such Post Master or Deputy Post Master, a memorandum in writing under his hand, acknowledging the receipt of every such Recognizance, and setting forth the day and hour the same was delivered by him as aforesaid, which memorandum shall also be signed by the person receiving the same, and be by him transmitted by the first or second Post afterwards to the said Post Master or Deputy Post Master of the office from which the same was so transmitted to him as aforesaid. 14, 15 V. c. 1 s. 144.

Course when proceedings are to be had in that part of the Province where the Recognizance was not taken.

154. When it becomes necessary or desirable to proceed upon any such Recognizance in the other section of the Province in which the same was not taken, it shall be lawful, upon filing an exemplification of such Recognizance under the Seal of the Court into which the same has been so returned, as provided by the one hundred and fifty-second section of this chapter, to proceed thereon as if such Recognizance had been taken in such other section of the Province and duly returned into the Court in which such exemplification thereof is so filed as aforesaid. 14, 15 V. c. 1, s. 145.

155. If the costs and expenses intended to be secured by any Recognizance instead of which any moneys shall have been deposited in the hands of the Chief Clerk of the proper House of the Provincial Parliament, are not paid pursuant to the provisions of this chapter, all such moneys, or so much thereof as may be necessary for that purpose, shall be applied in such order of payment as the Speaker of the said House for the time being in his discretion thinks fit, in satisfaction of such costs and expenses, or so much thereof as can be thereby satisfied, and thereafter the residue of such moneys, if any, shall be paid to the party by whom or on whose account the same were so deposited as aforesaid. 14, 15 V. c. 1, s. 146.

Application of moneys deposited instead of Recognizance.

156. All moneys received or recovered by reason or in pursuance of the estreating of or otherwise proceeding upon any such Recognizance as aforesaid, shall, after deducting all expenses incurred in respect thereof, be forthwith paid by the proper officer for that purpose into the hands of Chief Clerk of the proper House of the Provincial Parliament to the credit of the Speaker of the said House by his name of office, and shall be applied in manner hereinafter mentioned, in satisfaction, so far as the same will extend, of the costs and expenses intended to be secured by such Recognizance. 14, 15 V. c. 1, s. 147.

Application of the proceeds of Recognizances estreated.

157. Any person who has entered into any such Recognizance may, before the same has been estreated or otherwise proceeded upon as aforesaid, pay the sum of money for which he is bound by such Recognizance into the hands of the Chief Clerk of the proper House of the Provincial Parliament, to the credit of the said Speaker's account, and the Speaker, upon production to him of a receipt or certificate from the said Chief Clerk for the sum so paid in, shall endorse on the Recognizance in respect of which such money has been so paid in, a memorandum of such payment, and thereupon such Recognizance shall, so far as regards the person by or on whose behalf such money has been so paid, be deemed to be vacated, and shall not afterwards be estreated or otherwise proceeded upon as aforesaid, as against him; but such Recognizance shall continue to be in force as regards any other person who has entered into the same. 14, 15 V. c. 1, s. 148.

Money may be paid in by any Cognizor, in discharge of the Recognizance.

158. In every case in which any money is paid into the hands of such Chief Clerk, to the credit of the Speaker's account as hereinbefore provided, a receipt or certificate of the amount so paid in shall be delivered to the Speaker by the person paying in the same, and such money shall in the first place, and in such order of payment as the Speaker in his discretion thinks fit, be applied in satisfaction of all the costs and expenses for securing payment of which such Recognizance was given, or so much thereof as can be thereby satisfied, and thereafter the residue (if any) shall be paid to the party by whom or on whose account the same was paid in. 14, 15 V. c. 1, s. 149.

Receipts for and application of money so paid in.

11.—MISCELLANEOUS PROVISIONS.

Action against Returning Officer for not making return of person duly elected, or delaying such return, &c.

159. If any Sheriff or other Returning Officer wilfully delays, neglects, or refuses duly to return any person who ought to be returned to serve in Parliament for any Electoral Division in this Province, such person may, in case it has been determined by a Select Committee appointed in the manner hereinbefore directed, that such person was entitled to have been returned, sue the Sheriff or other Officer having so wilfully delayed, neglected or refused duly to make such return at his Election, in any of Her Majesty's Superior Courts of Record of original jurisdiction for Lower or Upper Canada, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit, provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of any proceedings in the proper House of the Provincial Parliament relating to such Election. 14, 15 V. c. 1, s. 150.

Recovery of pecuniary penalties under this Act.

160. All pecuniary penalties in and by this Chapter imposed, may be recovered, with full costs of suit, by any person suing for the same by action of debt in any Court in this Province having jurisdiction to the amount of such penalties respectively: and it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him to the amount of the penalty sued for, by virtue of this Chapter. 14, 15 V. c. 1, s. 151.

Limitation of time for prosecuting offenders against this Act.

161. Every indictment, information or action for any offence against this Chapter, or any forfeiture incurred under the same, shall be found, filed or commenced within one year after the commission of the fact on which such indictment, information or action is grounded, or within six months after the conclusion of the proceedings in the proper House of the Provincial Parliament, relating to the Election Petition on the trial of which such fact arose, and not afterwards. 14, 15. V. c. 1, s. 152.

Who shall be deemed a Justice of the Peace for the purposes of this Act.

162. All Mayors and Aldermen of Cities, and all Mayors, Town Recves and other Heads of any of the Municipal Corporations in this Province, and other the like persons as well as all other persons having by Statute for the time being *ex officio* Magisterial power in any part of this Province, shall, within the limits of their jurisdiction in that respect, be and be held to be Justices of the Peace within the meaning of this Chapter. 14, 15 V. c. 1. s. 153.

Questions concerning the regularity of any proceedings to be decided solely by the Select Committee.

163. All questions as to the sufficiency or regularity of any proceeding had, taken or followed, by either House of the Provincial Parliament,—or by the Speaker, Clerk or other Officer thereof,—or by the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk or other Officer thereof,—or by any Commissioner appointed to take evidence upon any such trial, or taking the same under the

the *Previous Evidence Clauses* aforesaid, or any Clerk, Bailiff or other Officer acting under such Commissioner,—or by any of the parties interested or concerned either in the prosecution or defence of such Election Petition, his Counsel or Agent in the
 5 conduct of the case of such party upon such Election Petition,—shall, so far as the same regards the trial and disposal of such Election Petition by such Select Committee, and the action of the House upon the Report of such Select Committee, be wholly judged of and determined by such Select Committee,
 10 and not by the House ;—And no order or resolution of the House respecting the sufficiency or regularity of any such proceeding shall in anywise be binding upon such Select Committee as far as regards the trial and disposal of such Election Petition. 14, 15 V. c. 1. s. 154.

15 **164.** The neglect or omission of any party interested or concerned either in the prosecution or defence of any such Election Petition, to observe strictly any of the directions contained in this Chapter respecting any proceeding or course of proceeding to be by him had or followed in the prosecution or
 20 defence of any such Election Petition,—except only where by the use of negative as well as affirmative terms, the intention of the Legislature has been manifested that such proceeding or course of proceeding, and no other, as to time, place and
 25 circumstance, or any of them respectively, should be had or followed in such case,—shall not render such proceeding, or course of proceeding, or the subsequent proceedings of such Election Select Committee in the trial and disposal of such Election
 30 Petition, necessarily void or of none effect,—provided that such Select Committee thereupon come to a resolution to be reported to the House, with the reasons of such Committee for coming to the same, that such neglect or omission hath not so
 35 affected the position of the parties to such Election Petition, or any of them, or the proceedings before them in relation to the same, as to interfere with or prevent the disposal by such Select Committee of any of the substantial questions raised upon such Election Petition, upon the true merits thereof. 14, 15 V. c. 1, s. 155.

Omission to observe affirmative provisions not to be fatal, if declared, by the Committee not to affect the substance of the question at issue.

40 **165.** Whenever any such neglect or omission as is referred to in the next preceding section does, in the opinion of such Select Committee, affect the position of the parties to such Election Petition, or any of them, or the proceedings before
 45 them in relation to the same, so as to interfere with or prevent the disposal by such Committee of any of the substantial questions raised upon such Election Petition, upon the true merits thereof,—the said Committee shall, by a resolution to be adopted by them and reported to the House, with the reasons therefor as aforesaid, declare the same,—and thereupon the party
 in default shall not be thereafter received further to proceed with his case, so far as any such question is concerned, but shall

If such omission affects the merits of the case, the party in default to be considered as having abandoned his case, *quoad* such cause.

shall be dealt with in every respect as if he had then voluntarily ceased further to prosecute his case as respects the same :

Exceptions. 2. Except only, firstly, that it shall remain open to such party to contend, if he thinks fit, that his case as to any such question had been then already sufficiently established in respect of the same or any part thereof, to entitle him to the decision of the said Select Committee in his favor upon the same ;

Exceptions. 3. And except, also, secondly, that such resolution shall not preclude such Select Committee from taking into consideration such neglect or omission, and all the circumstances attending the same, in coming to a conclusion as to whether the prosecution or defence of such party was or was not frivolous or vexatious, and reporting the same to the said House as aforesaid. 14, 15 V. c. 1, s. 156.

How the omission shall be dealt with, if declared not to affect the substance of the question. 166. In every such case of neglect or omission as is referred to in the next preceding section but one, the default of the party guilty of such neglect or omission, may in their discretion be dealt with by the Select Committee for the trial of such Election Petition,—either by the imposition upon such party, for the benefit of the party or parties opponent, of such conditions in respect of the future conduct of his case or any part thereof,—or by granting time or other indulgence to such party or parties opponent for facilitating the conduct of their case or cases, or some part or parts thereof,—or by the imposition of costs to be paid by the party in default to such party or parties opponent as aforesaid, or any or either of them, and by making the payment of such costs a condition precedent to permitting such party in default to proceed with his case or some part or parts thereof,—or in such other manner as to such Select Committee under all the circumstances thereof appears just in that behalf. 14, 15 V. c. 1, s. 157.

Provision if the party omitting to comply with the directions of the Act, be the House, the Speaker, the Clerk, Committee, Chairman, &c. 167. The non-observance by either House of the Provincial Parliament, or the Speaker, Clerk, or other Officer thereof,—or by the Select Committee appointed for the trial of any such Election Petition, or the Chairman, Clerk, or other Officer thereof,—or by any Commissioner appointed to take evidence upon any such trial, or acting under this chapter,—or any Clerk, Bailiff, or other Officer acting under such Commissioner,—of any of the directions contained in this chapter respecting any proceeding or course of proceeding to be had or taken by them respectively, in the disposal of such Election Petition, or the trial thereof,—except only where, by the use of negative as well as affirmative terms the intention of the Legislature has been manifested, that only such proceeding or course of proceeding, and no other, as to time, place and circumstance, or any of them respectively, should be had or taken in such case,—

case,—shall not render such proceeding or course of proceeding, or the subsequent proceedings of such Select Committee in the trial and disposal of such Election Petition, necessarily void or of none effect, provided that such Select Committee there-
 5 upon come to a resolution, to be reported to the House with the reasons of such Committee for coming to the same,—that such neglect or omission hath not so affected the position of the parties to such Election Petition, or any of them, or the
 10 proceedings before them in relation to the same, as to interfere with or prevent the disposal by such Committee of any substantial question raised upon such Election Petition upon the true merits thereof :

2. But in every such case where necessary, such non-observance shall be supplied, in the case of non-observance
 15 by the said House, or the Speaker, Clerk, or other Officer thereof, under the direction of the House itself,—and in the case of such non-observance by the said Select Committee, or the Chairman, Clerk, or other Officer thereof, or by any such
 20 Commissioner as aforesaid, or any Clerk, Bailiff or other Officer acting under him as aforesaid, then under the direction of such Select Committee,—so as to occasion to the parties prosecuting and defending such Election Petition as little inconvenience, delay or expense as may be. 14, 15 V. c. 1 s. 158.

Supplying the omission.

168. In all such cases of non-observance as are referred to in
 25 the next preceding section, where such non-observance has taken place on the part of the Speaker, Clerk or other Officer of either House of the Provincial Parliament, or on that of the Select Committee appointed for the trial of any such Election
 30 Petition, or the Chairman, Clerk, or other Officer thereof, or on that of any Commissioner appointed to take evidence upon any such trial, or acting under this chapter, or any Clerk, Bailiff or other Officer acting under such Commissioner,—the persons
 35 guilty of such non-observance, may, by order of the said House in its discretion, be taken into the custody of the Sergeant Arms attending such House, or his Deputy, for such non-observance, and be otherwise dealt with, at the like discretion of
 40 the said House, by censure or imprisonment, or by requiring them to make such satisfaction to the parties so interested or concerned in such Election Petition, or any of them, as to the
 45 said House may seem just, and by commitment of such persons, or any of them, in execution, for such period as the said House deems proper, or until such satisfaction is made to such parties or any of them, according to the judgment come to by the said House in that behalf, or by all or any of such means as in the discretion of the said House seem just :

In cases of non-observance by Speaker, &c.

2. Provided nevertheless, that every such proceeding by
 the said House shall, in all cases, except in that of the Speaker
 of the said House, or in that of the said Select Committee or
 the Chairman or other Member thereof, be had and taken by
 the

Proviso.

the said House only upon a special report of such non-observance made by such Select Committee to the said House, and not otherwise. 14, 15 V. c. 1 s. 159.

12.—CASES FOR WHICH NO SPECIAL PROVISION IS MADE.

As to cases where no express provision is made by this Act.

169. If with regard to any Election Petition, any case arises as to which no express provision is made by this chapter, and in which if it were treated as a case wholly without the purview of this chapter, there would be a manifest failure of justice, without any error, fault or neglect of any of the parties interested,—then such case shall not be held to be omitted, but it shall be lawful for the House, Speaker, General Election Committee, Chairmen’s Panel, Select Committee, or Commissioner, as the case may be, to adopt such proceeding as they or he deem most consonant to the express provisions, spirit and intent of this chapter, and when such proceeding is not taken by the House, to report the same to the House, for the information thereof only,—and such proceeding shall not be held illegal, unless it be inconsistent with some express provision of this chapter, or some other existing provision of law. 14, 15 V. c. 1, s. 160.

Meaning of the term “Electoral Division.”

170. The expression “Electoral Division,” in this chapter, means any County or other place or portion of this Province, entitled to return a Member to either House of the Provincial Parliament, unless the context shews that it applies only to an Electoral Division for the Legislative Council.

SCHEDULES.

A (1).—RECOGNIZANCE ON THE PART OF THE PETITIONER

(Referred to in the eleventh Section of this Chapter.)

CANADA, }
to wit: }

Be it remembered, that on the _____ day of _____, in the year of Our Lord, one thousand eight hundred and _____, Before me the Honorable A. M., Speaker of the Honorable the Legislative Council (or Legislative Assembly) of the Province of Canada, (or before me N. M., Esquire, one of Her Majesty’s Justices of the Peace for &c., or Mayor, Alderman or Town Reeve of _____, in _____ Canada, as the case may be) at _____, in _____, came A. B., of &c., Esquire, (as the case may be) C. D., of &c., E. F., &c., and G. H., of &c., and acknowledged himself (or severally acknowledged themselves) to owe to Our Sovereign Lady the Queen, the sum of two hundred pounds, (or the following sums, that is to say: the

the said A. B. the sum of _____, the said C. D. the sum of _____, the said E. F. the sum of _____, and the said G. H. the sum of _____, to be levied on his (or their respective) goods and chattels, lands and tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (here insert the names of the Petitioner, and if more than one, add or any of them) shall well and truly pay all sums of money, costs and expenses which shall become payable by him, (or them) in respect of the Election Petition signed by him, (or them) relating to the (here insert the name of the Electoral Division) which shall become payable by the said Petitioner (or Petitioners) under the Act respecting Controverted Parliamentary Elections, to any witnesses summoned in his (or their) behalf, or to the sitting Member (or Members) or other party complained of in the said Petition, or to any party who may be admitted to defend the same as provided by the said Act, or to any person who upon the application of such Petitioner (or Petitioners) for the issue of a Commission to take evidence on the trial of the said Election Petition, shall be appointed Commissioner for that purpose, (or to any Judge of the Circuit Court, or any County Judge who upon the application of the said Petitioner (or Petitioners) shall act as such Commissioner under the said Act,) or to any person who may be appointed Commissioner in the place of such first mentioned Commissioner under the provisions of the said Act, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me at the day and place aforesaid, in pursuance of the Act respecting Controverted Parliamentary Elections.

- A. B.
- C. D.
- E. F.
- G. H.

A. N. Speaker,

or

N. M.

Justice of the Peace (Mayor, &c., as the case may be) for, &c. Schedule A 1, to 14, 15 V. c. 1.

A (2.)—RECOGNIZANCE ON THE PART OF THE SITTING MEMBER

*(Referred to in the twelfth Section of this Chapter.)*CANADA, }
to wit: }

Be it remembered, that on the _____ day of _____ in the year of Our Lord, one thousand eight hundred and _____, Before me the Honorable A. N., Speaker of the Honorable the Legislative Council (or Legislative Assembly) of the Province of Canada, (or before me N. M., Esquire, one of Her Majesty's Justices of the Peace for, &c., or Mayor, Alderman or Town Reeve of _____, in _____ Canada, as the case may be) at _____, in _____, came A. B., of, &c., Esquire, (or as the case may be) C. D., of, &c., E. F, of, &c., and G. H., of, &c., and acknowledged himself (or severally acknowledged themselves) to owe to Our Sovereign Lady the Queen the sum of one hundred pounds (or the following sums, that is to say: the said A. B. the sum of _____ pounds, the said C. D. the sum of _____ pounds, the said E. F. the sum of _____ pounds, and the said G. H. the sum of _____ pounds) to be levied on his (or their respective) goods and chattels, lands and tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the name of the sitting Member or Members.*) the sitting Member (or Members) for the County, &c., (*insert the designation of the Electoral Division*) of _____ in Upper (or Lower) Canada, in the Provincial Parliament, shall well and truly pay all sums of money, costs and expenses which shall become payable by him (or them) to any person who upon the application of such sitting Member (or Members) for the issuing of a Commission to take evidence on the Trial of an Election Petition, presented (or to be presented) to the Legislative Council (or to the Legislative Assembly,) under the *Act respecting Controverted Parliamentary Elections*, relating to the said County (Riding, &c., as the case may be,) shall be appointed Commissioner for that purpose, (or to any Judge of the Circuit Court or any County Judge who upon the application of the said sitting Member (or Members) shall act as such Commissioner under the said Act,) or to any person who may be appointed Commissioner, in the place of such first mentioned Commissioner, under the provisions of the said Act, or to any Clerk, Bailiff or other Officer appointed by any of such Commissioners under the authority of the same, then this
Recognizance

Recognizance to be void, otherwise to be of full force and effect.

Taken and acknowledged before me at the day and place afore- said, in pursuance of the <i>Act</i> <i>respecting Controverted Par-</i> <i>liamentary Elections.</i>	}	A. B. C. D. E. F. G. H.
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A. N. Speaker,
 or
 N. M.

Justice of the Peace, (Mayor, &c., *as the case may be,*) for, &c.
Schedule A 2, to 14, 15 V. c. 1.

A (3).—RECOGNIZANCE ON THE PART OF PETITIONER FOR PERMISSION TO DEFEND

(Referred to in the twenty-ninth Section of this Chapter.)

Canada, }
 To wit : }

Be it remembered, that on the _____ day of _____, in the year of Our Lord, one thousand eight hundred and _____, before me the Honorable A. N., Speaker of the Legislative Council (or Legislative Assembly) of the Province of Canada (or before me N. M., Esquire, one of Her Majesty's Justices of the Peace for, &c.,) or Mayor, Alderman or Town Reeve of _____, in _____ Canada, (*as the case may be,*) at _____, came A. B., of, &c., Esquire, (*as the case may be,*) C. D., of, &c., E. F., of, &c., and G. H., of &c., and acknowledged himself (or severally acknowledged themselves) to owe to Our Sovereign Lady the Queen, the sum of one hundred pounds (or the following sums, that is to say: the said A. B., the sum of _____ pounds; the said C. D., the sum of _____ pounds, the said E. F., the sum of _____ pounds, and the said G. H., the sum of _____ pounds,) to be levied on his (or their) goods and chattels, Lands and Tenements, to the use of Our said Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is such, that if (*here insert the name of the Petitioner for permission to defend,*) a Petitioner (or Petitioners) to the Legislative Council (or Legislative Assembly) of this Province, for permission to defend an Election
 Petition

Petition presented (or to be presented) to the said House, where-
 by the Seat (or Seats) of (*here insert the name of the sitting
 Member or Members*) the sitting Member (or Members) for the
 County, (Riding, &c., *insert the designation of the Electoral
 Division,*) of _____ in Lower (or Upper) Canada, *as the
 case may be* is (or are) or may be affected, and which said
 sitting Member (or Members) hath (or have) or is (or are) ex-
 pected to decline defending such Seat (or Seats,) shall well and
 truly pay all sums of money, costs and expenses, which shall
 become payable by him (or them) in respect of the Petition for
 permission to defend such Election Petition, which shall become
 payable by the said Petitioner (or Petitioners,) for permission to
 defend under the *Act respecting Controverted Parliamentary
 Elections*, to any Witness summoned on his (or their) behalf, or
 to the Petitioner (or Petitioners) in such Election Petition,
 or to any person who upon the application of such Pe-
 titioner (or Petitioners) for permission to defend for the issue
 of a Commission to take evidence on the trial of such Election
 Petition, shall be appointed Commissioner for that purpose, or
 to any person who may be appointed Commissioner in the
 place of such first mentioned Commissioner, or to any Clerk,
 Bailiff or other Officer appointed by any of such Commissioners
 under the authority of the same, then this Recognizance to be
 void, otherwise to be of full force and effect.

Taken and acknowledged before
 me at the day and place afore-
 said, in pursuance of the *Act
 respecting Controverted Parlia-
 mentary Elections.*

A. B.
 C. D.
 E. F.
 G. H.

A. N., Speaker,
 or
 N. M.,

Justice of the Peace (Mayor, &c., *as the case may be*) for, &c.
Schedule A 3, to 14, 15 V. c. 1.

A (4.) AFFIDAVIT OF SUFFICIENCY OF SURETIES

(*Applicable to any of the foregoing Recognizances, and
 referred to in the thirteenth Section of this Chapter.*)

Canada, }
 To wit : }

A. B., of, &c., (*as in the Recognizance*) in the within (or an-
 nexed) Recognizance mentioned, maketh oath (or affirmeth) and
 saith that he, this Deponent, (or affirmant) is seized of real
 estate, (or is possessed of personal estate,) (or is seized and
 possessed

possessed of real and personal estate respectively, *as the case may be*) over and above what will satisfy and discharge all his just debts to the amount of
(double the amount for which he is bound in the Recognizance.)

A. B.

Sworn by the said Deponent (or affirmed by the said affirmant) at the time and place of his entering into the said Recognizance.

Before me A. N., Speaker,
 or
 N. M.,

Justice of the Peace (Mayor, &c., *as the case may be*) for, &c.
Schedule A 4, to 14, 15 V. c. 1.

SCHEDULES.

B 1. COMMISSION FOR THE EXAMINATION OF WITNESSES

(Referred to in the ninety-ninth Section of this Chapter.)

CANADA, }
 to wit: }

To the Honorable G. H., of, &c., one of Her Majesty's Judges of the Circuit Court in Lower Canada, (or His Honor, G. H., one of Her Majesty's County Judges in Upper Canada, or *as the case may be*), and all others whom it doth or may in any way concern :

I, J. I., of, &c., Esquire, Member of the Legislative Council (or Legislative Assembly) of the Province of Canada, and Chairman of the Select Committee appointed to try the merits of the Election Petition of C. D. and E. F., &c. (*setting out the names of the Petitioners*) against the election (or return, or election and return) of J. L., Esquire, the sitting Member (or *as the case may be*) for the County (Riding, &c., *insert the designation of the Electoral Division*) of _____, in Canada in the said Legislative Council (or Legislative Assembly) send—Greeting :

Whereas upon the application of the said Petitioners (or of C. D., one of the said Petitioners, or of the said sitting Member
 or

or of K. L., a Petitioner (or Petitioners) who has (or have) been admitted to defend the said Election Petition, (or as the case may be,) to the said Select Committee, (or otherwise, as the case may be,) it has been ordered by the said Committee, in pursuance of the powers vested in them by the *Act respecting Controverted Parliamentary Elections*, that a Commission should issue for the examination of witnesses on the trial of such Election Petition, and that you the said G. H. shall be appointed such Commissioner:—These are therefore, in compliance with the said orders and in pursuance of the provisions of the said Act, to nominate, constitute and appoint you the said G. H. to be such Commissioner, to examine and enquire into all matters and things to you for that purpose referred or to be referred by the said Election Committee, or any other Election Committee that may be appointed in their place for the trial of such Election Petition according to the provisions of the said Act, with all such powers and authority as by law belong to the office of such Commissioner by virtue of the said Chapter, or otherwise howsoever;—And you are hereby expressly commanded with all necessary speed to repair to the said County (Riding &c., as the case may be,) of _____, and there at such place therein as you shall for that purpose appoint, on _____, the _____ day of _____ next, to proceed with the examination and enquiry aforesaid:—And all and whatsoever you do or cause to be done in the premises you are to return to the Honorable the Speaker of the said Legislative Council (or Legislative Assembly) for the time being, in the manner and within the time by the said Act for that purpose prescribed; and this you are in no wise to omit under a penalty of one hundred pounds, and such other penalties as you may by law incur by reason of any such omission or neglect.

Given under my hand and seal at _____, in
 Cañada, this _____ day of _____, in the year of
 Our Lord, one thousand eight hundred _____, and of
 Her Majesty's Reign the _____ . Schedule B 1, to 14, 15
 V. c. 1.

J. T.

(L. S.)

(B 2.)—SIMILAR COMMISSION WHERE A NEW COMMISSIONER IS APPOINTED IN CONSEQUENCE OF THE ORIGINAL COMMISSIONER NOT BEING ABLE TO ACT.

(Referred to in the one hundredth Section of this Chapter.)

CANADA, }
to wit: }

To the Honorable G. B., of _____, one of Her Majesty's Judges of the Superior Court in Lower Canada, (or His Honor G. H., one of Her Majesty's County Judges in Upper Canada, *as the case may be,*) and to all others whom it doth or may in any wise concern :

I, J. I., of, &c., Esquire, a Member of the Legislative Council (or Legislative Assembly) of the Province of Canada, and Chairman of the Select Committee appointed to try the merits of the Election Petition of C. D. and E. F. &c., (*setting out the names of the Petitioners*) against the election (or return, or election and return) of J. L. Esquire, the sitting Member, or *as the case may be* for the County (Riding, &c., *insert the designation of the Electoral Division*) of _____, in _____ Canada, in the said Legislative Council (or Legislative Assembly) send—Greeting :

Whereas upon the application of the said Petitioners, (or of C. D., one of the said Petitioners, or of the said sitting Member, or of K. L., a Petitioner or Petitioners, who has or have been admitted to defend the said Election Petition, or *as the case may be*) to the Select Election Committee (or otherwise, *as the case may be,*) --it was ordered by the said Committee in pursuance of the powers vested in them by the *Act respecting Controverted Parliamentary Elections*, that a Commission should issue for the examination of Witnesses on the trial of such Election Petition, and that G. H. should be appointed such Commissioner; and thereupon, by Warrant under my Hand and Seal, pursuant to the said Chapter (or under the Hand and Seal of L. M., the then Chairman of the Select Election Committee, to try the merits of such Election Petition, *as the case may be,*) one G. H. was appointed such Commissioner to examine and enquire into all matters and things to him for that purpose referred or to be referred by the said Election Committee, or any other Election Committee that might be appointed in their place, for the trial of such Election Petition, according to the provisions of the said Act; (or, the Honorable W. P., one of the Judges of the Circuit Court in Lower Canada, (or, His Honor G. H., one of Her Majesty's County Judges in Upper Canada,) did, upon the application of the said Petitioner (or of the sitting Member,) take upon himself the duties of a Commissioner under the provisions of the said Act;)--And whereas

whereas in consequence of the death of the said (G. H.) (or of the incapacity of the said (G. H.) from illness, or as the case may be) it has become impossible that the said Commission should be executed (or that the execution of the said Commission should be completed) according to the exigency thereof, and it hath therefore been further ordered by the said Select Election Committee, that a new Commissioner should be appointed in the place of the said G. H., and that you the said G. B. should be appointed such last mentioned Commissioner:—These are therefore, in compliance with the said Orders, and in pursuance of the provisions of the said Act, to supersede the said Commission, and to nominate, constitute and appoint you the said G. B. to be such Commissioner as last aforesaid, for the purposes aforesaid, with all such powers and authority as by law belong to the office of such Commissioner, by virtue of the said Act, or otherwise howsoever; and you are hereby expressly commanded, with all necessary speed, to repair to the County (Riding, &c., as before) of _____, and there at such place therein, as you shall for that purpose appoint, on _____, the _____ day of _____ next, to proceed with the examination and enquiry aforesaid;—And all and whatsoever you shall do, or cause to be done, in the premises, you are to return to the Honorable the Speaker of the said Legislative Council or Legislative Assembly, for the time being, in the manner and within the time by the said Act for that purpose prescribed. And this you are in no wise to omit under a penalty of one hundred pounds, and such other penalties as you may by law incur by reason of any such omission or neglect.

Given under my hand and seal, at _____, in _____
Canada, this _____ day of _____, one
thousand eight hundred _____, and of Her Majesty's
Reign the _____

I. J. (L. S.)
Schedule B 2, to 14, 15 V. c. 1.

B (3.)—COMMISSIONER'S OATH

(Referred to in the one hundred and thirteenth Section of this Chapter.)

I, A. B., do swear that I will, without favor, affection or malice, and according to the best of my skill and knowledge, well and truly try and examine all such matters and things as shall be brought before me, by virtue of a Warrant, dated the day of _____, one thousand eight hundred and fifty _____ under the hand and seal of the Chairman of the Select Committee of the Legislative Council (or Legislative Assembly) of this Province, on a Petition from (here state the name or names of _____ of _____)

of the Petitioner or Petitioners, and of the place to which the Petition relates), and that I will in all things well and truly perform the duty of a Commissioner appointed to try the said matters and things, according to the rules, regulations and directions contained in the *Act respecting Controverted Parliamentary Elections*. So help me God. *Schedule B 3, to 14, 15 V. c. 1.*

B (4.)—CLERK'S OATH

(*Referred to in the One Hundred and Eighth Section of this Chapter.*)

I, A. B., do swear that I will, without favor, affection or malice, and according to the best of my skill and knowledge, well and truly take down in writing the Minutes of all the proceedings had before you, or any person who may be appointed Commissioner in your place, as Commissioner for taking evidence on the trial of the pending Election Petition, relating to the County (Riding, &c., *as the case may be*) of, &c., in as accurate a manner and as nearly as may be in the exact words in which such evidence shall be delivered, and that I will in all things well and truly perform the duty of Clerk to you, and to any person who may be appointed Commissioner in your place as such Commissioner, according to the rules, regulations and directions contained in the *Act respecting Controverted Parliamentary Elections*, and such lawful directions as I shall or may receive from you, or such other Commissioner, under the authority thereof. So help me God. *Schedule B 4, to 14, 15, V. c. 1.*

B (5.)—OATH OF THE BAILIFF OR OTHER OFFICER OF COMMISSION

(*Referred to in the One Hundred and Eighth Section of this Chapter.*)

I, A. B. do swear that I will, without favor, affection or malice, and according to the best of my skill and power in all things, well and truly perform the duty of Bailiff, (*or as the case may be*) to you, and to any person who may be appointed Commissioner in your place, as Commissioner for taking evidence on the trial of the pending Election Petition relating to the County (Riding, &c., *or as the case may be*) of, &c., according to the rules, regulations and directions contained in the *Act respecting Controverted Parliamentary Elections*, and such lawful directions as I shall or may receive from you or such other Commissioner under the authority thereof. So help me God. *Schedule B 5, to 14, 15 V. c. 1.*

C A P . V I I I .

An Act respecting the Naturalization of Aliens.

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

NATURALIZATION UNDER THE PRESENT LAW.

Aliens, after a continued residence of 3 years, to be entitled to a certificate of Naturalization.

1. Every Alien residing in any part of this Province, immediately before the eighteenth day of January, 1849, or who at any time thereafter came or comes to reside in any part of this Province with intent to settle therein, and who after a continued residence therein for a period of three years or upwards, has taken the oaths or affirmations of residence and allegiance (or the oath or affirmation of residence only if a female) and procured the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a certificate of Naturalization as hereinafter provided, shall thenceforth enjoy and may transmit all the rights and capacities which a Natural-born subject of Her Majesty can enjoy or transmit. 12 V. c. 197, s. 4,--as amended by 22 V. c. 1.

Aliens to take Oath of Residence.

2. Every such Alien, in order to become entitled to the benefit of this chapter, shall take and subscribe the following Oath of Residence, or being one of those persons who are allowed by the Laws of this Province to affirm in judicial cases, shall make affirmation to the same effect, that is to say :

Oath of Residence.

Oath.

" I, A. B., do swear (or, being one of the persons allowed by Law to affirm in judicial cases, do affirm) that I have resided three years in this Province, with intent to settle therein, without having been during that time a stated resident in any foreign country. So help me God."

He shall also take the Oath of Allegiance.

2. And every such Alien being a male, in order to become entitled to the benefit of this chapter, shall also take and subscribe the following Oath of Allegiance, (or being one of those persons who are allowed by the Laws of this Province to affirm in judicial cases, shall make affirmation to the same effect,) that is to say :

Oath of Allegiance.

The Oath.

" I, A. B., do sincerely promise and swear (or, being one of the persons allowed by Law to affirm in judicial cases, do affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Colonies and Territories thereunto in anywise belonging, and to be so faithful and bear true allegiance to Her Majesty Queen Victoria as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Colonies and Territories thereunto in anywise belonging, as long as I shall live."

“ of Great Britain and Ireland, and of the Province of Canada
 “ dependent on and belonging to the said United Kingdom,
 “ and that I will defend Her to the utmost of my power
 “ against all traitorous conspiracies and attempts whatever
 5 “ which shall be made against Her Person, Crown and Dignity;
 “ and that I will do my utmost endeavour to disclose and
 “ make known to Her Majesty, Her Heirs and Successors, all
 “ treasons and traitorous conspiracies and attempts which I shall
 10 “ know to be against Her or any of them ; and all this I do
 “ swear without any equivocation, mental evasion, or secret
 “ reservation, and renouncing all pardons and dispensations
 “ from any person or persons whatever to the contrary. So
 “ help me God.”

3. And every such oath or affirmation, shall be taken and sub-
 15 scribed by the said Alien, and shall be administered to him or
 her by any Justice of the Peace or person having *ex officio* the
 power and authority of a Justice of the Peace within the City,
 Town, Parish, Village or Township in which the said Alien
 resides, which said Justice of the Peace or person shall there-
 20 upon grant to the said Alien a Certificate of Residence, setting
 forth that such Alien has taken and subscribed the said oath
 or affirmation, and (if the fact is so) that such Justice or person
 has reason to believe that such Alien had been so resident
 25 within the Province for a period of three years or upwards,
 that he or she is a person of good character, and that there
 exists to the knowledge of such Justice or person, no reason
 why the said Alien should not be granted all the rights and
 capacities of a Natural-born British Subject. 12, V. c. 197,
 s. 5., as amended by 22 V. c. 1.

Oath to be ad-
 ministered by
 Justice of the
 Peace, who
 shall grant a
 Certificate of
 Residence.

30 3. The said Alien may present the Certificate of Resid-
 ence from the said Justice of the Peace, or other person as afore-
 said, to the Court of Quarter Sessions of the Peace, or the Re-
 35 corder's Court of the County or City within the juris-
 diction of which he resides in Upper Canada, or to the Cir-
 cuit Court in and for the Circuit within which he resides in
 Lower Canada, in open Court, on the first day of some gen-
 eral sitting thereof, and thereupon such Court shall cause the
 same to be openly read in Court ; And if in the interval the
 40 facts mentioned in the said Certificate of Residence are not
 controverted, or any other valid objection made to the Natural-
 ization of such Alien, such Court, on the last day of such gen-
 eral sitting, shall direct that such Certificate of Residence be
 45 filed of record in the said Court, and thereupon such Alien
 shall be thereby admitted and confirmed in all the rights and
 privileges of British birth, to all intents whatever, as if he or
 she had been born within this Province. 12 V. c. 197, s.
 6.

Such Certifi-
 cate of Resi-
 dence, where
 to be present-
 ed.

And when to
 be filed of re-
 cord, &c. Its
 effect.

4. Every such person shall be then entitled to receive a
 Certificate of Naturalization, under the seal of such Court, and
 the Alien to be entitled to re-
 the

ceive a Certificate of Naturalization.

the signature of the Clerk thereof, that he or she hath complied with the several requirements of this chapter; which Certificate of Naturalization may be in the following form, or to the like effect, that is to say:

Province of Canada,
Circuit, (or County or City) of
to wit:

In the Court of

Certificate of Naturalization.

Whereas A. B., of, &c. (describing him or her as formerly of such a place, in such a Foreign Country, and now of such a place in this Province, and adding his or her addition), hath complied with the several requirements of the Act respecting the Naturalization of Aliens, and the certificate thereof hath been read in open Court, and thereupon, by order of the said Court, duly filed of record in the same, pursuant to the said Act; These are therefore to certify to all whom it may concern, that under and by virtue of the said Act, the said A. B. hath obtained all the rights and capacities of a Natural-born British Subject within this Province, to have, hold, possess and enjoy the same within the limits thereof, upon, from and after the day of (the day of filing the Certificate of Residence), in the year of our Lord, one thousand eight hundred and ; and this Certificate thereof is hereby granted to the said A. B., according to the form of the said law.

Given under my Hand and the Seal of the said Court, this day of , in the year of our Lord, one thousand eight hundred and

(Signature,) C. D.

Clerk of the Peace,

(or Clerk of the Recorder's Court, or Clerk of the Circuit Court, as the case may be.) 12 V. c. 197, s. 7.

Copy of Certificate may be registered.

5. A copy of the said Certificate of Naturalization may, at the option of the party, be registered in the Registry Office of any County or Registration Division within this Province, and a certified copy of such Registry shall be sufficient evidence of such Naturalization in all Courts and places whatsoever. 12 V. c. 197, s. 8.

Aliens may take the oaths of Residence, &c. and obtain Certificates.

6. Any Alien entitled to be naturalized under the provisions of the second or of the third section of this Chapter, may take the oaths or affirmations of Residence and of Allegiance, and obtain Certificates as aforesaid in the same manner as Aliens entitled to be naturalized under the provisions of the fourth section of this Chapter only, and with the same effect to all intents and purposes. 12 V. c. 197, s. 9.

7. Any woman married to a Natural-born British Subject, or person naturalized under the authority of this or any other former law either of this Province or of either of the late Provinces of Lower or Upper Canada, shall be deemed to be herself naturalized, and have all the rights and privileges of a Natural-born British Subject. 12 V. c. 197, s. 10.

Any woman married to a Natural-born British Subject, shall be deemed naturalized.

8. The Justice of the Peace or other person as aforesaid, for administering the oath or oaths or affirmation or affirmations above mentioned, shall be entitled to receive from the person to whom he administers the same, one shilling and three pence, and no more ;—And the Clerk of the Peace or Clerk of the Recorder's Court, or Clerk of the Circuit Court shall, for reading and filing the Certificate of Residence, and preparing and issuing the Certificate of Naturalization under the Seal of the Court, be entitled to receive from such person the sum of one shilling and three pence, and no more ;—And the Registrar shall, for recording the said last mentioned Certificate, be entitled to receive from such person, the sum of one shilling and three pence, and a further sum of one shilling and three pence for every search and certified copy of the same, and no more. 12 V. c. 197. s. 11.

Fee of Justice of the Peace for administering oath, &c.
 Fee of Clerk of the Peace, &c.
 Fee of Registrar, &c.

9. Every Alien shall have the same capacity to take, hold, possess, enjoy, claim, recover, convey, devise, impart and transmit Real Estate in all parts of this Province, as Natural-born or Naturalized Subjects of Her Majesty, in the same parts thereof respectively :

Alien to have the same powers as to Real Estate as Subjects of Her Majesty.

2. Provided always, that nothing herein contained shall alter, impair or affect or be construed to alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever before the twenty-third day of November, 1849. 12 V. c. 197 s. 12.

Proviso.

10. The privileges of Naturalization imparted by this Chapter to the several classes of persons herein mentioned, are imparted to such persons respectively on the terms and conditions herein set forth, and are to be by such persons exercised and enjoyed within the limits of this Province, according to the true intent and meaning of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for the Naturalization of Aliens.* 12 V. c. 197, s. 13.

Privileges of Naturalization to be subject to provisions of the Imperial Act.

11. Nothing herein contained shall repeal or in any manner affect the Act of the Legislature of Upper Canada, passed in the fifty-fourth year of the Reign of His late Majesty King George the Third, intituled, *An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty,* or any proceedings had under the said Act. 12 V. c. 197, s. 14.

Act of U. C. 54 G. 3, c. 9, not affected.

This chapter not to affect 4, 5 V. c. 7—Or sections 1, 2 and 3 of 12 V. c. 197, or any rights acquired under them.

12. Nor shall any thing herein contained repeal or in any manner affect the Act passed in the session held in the fourth and fifth years of Her Majesty's reign, intituled, *An Act to secure to and confer upon certain inhabitants of this Province, the civil and political rights of natural-born British Subjects*, on the first, second and third sections of the Act passed in the twelfth year of Her Majesty's reign, intituled, *An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens*,—or impair or affect the naturalization of any person naturalized under the said Acts, or either of them, or any rights acquired by such person or by any other party by virtue of such naturalization, all which shall remain valid and be possessed and enjoyed by such person or party respectively.

PENALTY FOR FALSE SWEARING.

Penalty on persons swearing falsely, &c.

13. Any person wilfully swearing falsely or making any false affirmation under this Chapter, shall be deemed guilty of wilful and corrupt perjury, and shall, on conviction, in addition to any other punishment authorized by Law, forfeit all the privileges or advantages which he or she would otherwise, by making such oath or affirmation, have been entitled to under this Chapter, but the rights of others in respect to estates derived from or held under him or her, shall not thereby be prejudiced, excepting always such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him or her was created. 4, 5 V. c. 7, s. 6, and 12 V. c. 197, s. 15.

C A P . I X .

An Act respecting Civilization and Enfranchisement of certain Indians.

IN order to encourage the progress of civilization among the Indian Tribes in this Province, and the gradual removal of all legal distinctions between them and Her Majesty's other Canadian Subjects, and to facilitate the acquisition of property and of the rights accompanying it, by such Individual Members of the said Tribes as are found to desire such encouragement and to have deserved it: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts of follows:

1. In the following enactments, the term "Indian" means only Indians or persons of Indian blood or intermarried with Indians, acknowledged as members of Indian Tribes or Bands residing upon lands which have never been surrendered to the Crown (or which having been so surrendered have been set apart or are then reserved for the use of any Tribe or Band of Indians in common), and who themselves reside upon such lands, and have not been exempted from the operation of the next section and such persons only shall be deemed Indians within the meaning of any provision of this Chapter or of any other Act or Law in force in any part of this Province by which any legal distinction is made between the rights and liabilities of Indians and those of Her Majesty's other Canadian Subjects: And the term "enfranchised Indian" means any person to whom the next section would have been applicable but for the operation of the provisions hereinafter made in that behalf: And the term "Tribe," includes any Band or other recognized community of Indians. 20 V. c. 26, ss. 1 and 2.

To what persons only section 3, of 13, 14 V. c. 74, shall apply.

Such persons only to be deemed Indians for certain purposes.

Interpretation of certain terms in this Act.

2. No person shall take any confession of Judgment or Warrant of Attorney from any Indian within Upper Canada, or by means thereof, or otherwise howsoever obtain any judgment for any debt or pretended debt, or upon any bond, bill, note, promise or other contract whatsoever, unless such Indian is seized in fee simple in his own sole right of real estate in Upper Canada, the title to which is derived directly or through others by Letters Patent from the Crown, and is assessed in respect of such real estate to the amount of twenty-five pounds or upwards. 13, 14 V. c. 74, s. 3.

Confessions of Judgment, &c., not to be taken from Indians.

Exception.

3. No person shall sell, barter, exchange or give to any Indian, man, woman or child, within Upper Canada, any kind of spirituous liquors in any manner or way, or cause or procure the same to be done for any purpose whatsoever; and if any person so sells, barter, exchanges or gives any such spirituous liquors

No spirituous liquors to be furnished to Indians in Upper Canada.

- Penalty.** liquors to any Indian man, woman or child as aforesaid, or causes the same to be done, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined at the discretion of the Court, not exceeding five pounds for every such offence, and shall forfeit also the sum of one pound five shillings for every such offence, to be recovered as in an action of debt, with costs, in any Court of competent jurisdiction, by any one who will sue for the same, one moiety of every such last mentioned pecuniary penalty or forfeiture to go to the informer or prosecutor, and the other moiety thereof to be paid to Her Majesty, or to some officer acting under Her authority, to be disposed of for the use and benefit of the Indians, as the Governor may direct: but no such penalty shall be incurred by the furnishing to any Indian, in case of sickness, any spirituous liquor, either by a medical man or under the direction of any such medical man. 13, 14 V. c. 74, s. 6.
- How recovered and appropriated.**
- Proviso.**
- Pawns not to be taken from Indians in Upper Canada, for liquor.** 4. No pawn taken of any Indian in Upper Canada for any spirituous liquor, shall be retained by the person to whom such pawn is delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who has deposited the same, before any Court of competent jurisdiction. 13, 14 V. c. 74, s. 7.
- Recital.** 5. And whereas certain tribes of Indians in Upper Canada receive annuities and presents, which annuities, or portions thereof, are expended for and applied to the common use and benefit of the said Tribes, more especially for the encouragement of agriculture and other civilizing pursuits among them, although the articles so required or purchased out of such annuities, may be and often necessarily are, in the possession or control of some particular Indian or Indians of such Tribes, and it is important with a view to the progress and welfare of such Tribes, that the property thus acquired or purchased should be protected from seizure, distress or sale, under or by virtue of any process whatsoever: Therefore, none of such presents or of any property purchased or acquired with or by means of such annuities, or any part thereof, or otherwise howsoever, and in the possession of any of the Tribes or any of the Indians of such Tribes, shall be liable to be taken, seized or distrained for any matter or cause whatsoever. 13, 14 V. c. 74, s. 8.
- Indian presents not to be purchased from them.**
- Certain functionaries to be Commissioners for examining Indians for the purposes of this Act.** 6. The Visiting Superintendent of each Tribe of Indians, for the time being, the Missionary to such Tribe for the time being, and such other person as the Governor may appoint from time to time for that purpose, shall be Commissioners for examining Indians, being members of such Tribe, who may desire to avail themselves of the following sections of this Chapter, and for making due enquiries concerning them: And such Commissioners shall meet for the said purposes at such places and times as the Superintendent General of Indian affairs shall from time to time direct, and shall have full power to make such examination and inquiry:

2. And if such Commissioners report in writing to the Governor that any such Indian of the male sex, and not under twenty-one years of age, is able to speak, read and write either the English or the French language readily and well, and is sufficiently advanced in the elementary branches of education, and is of good moral character and free from debt, then the Governor may cause notice to be given in the Official Gazette of this Province, that such Indian is enfranchised under this Chapter; And the provisions of the third section of this Chapter; and all other enactments making any distinction between the legal rights and habilites of Indians and those of Her Majesty's other subjects, shall cease to apply to any Indian so declared to be enfranchised, who shall no longer be deemed an Indian within the meaning thereof. 20 V. c. 26, s. 3.

Names of Indians favorably reported to be published, and the said 3rd section of this Chapter not to apply to them.

7. The said Commissioners may also examine and inquire concerning any male Indian over twenty-one and not over forty years of age, desirous of availing himself of this Chapter, although he be not able to read and write or instructed in the usual branches of school education; and if they find him able to speak readily either the English or the French language, of sober and industrious habits, free from debt and sufficiently intelligent to be capable of managing his own affairs, they shall report accordingly in writing to the Governor:

Indians may be reported in a state of probation.

2. And if such report is approved by the Governor as to any Indian, he shall, by virtue of such approval, be in a state of probation during three years from the date of the report, and if at the end of that term the Commissioners again report in writing to the Governor that such Indian has during such term conducted himself to their satisfaction, then the Governor may cause notice to be given in the Official Gazette that such Indian is enfranchised under this Chapter, and he shall thereupon be so enfranchised. 20 V. c. 26, s. 4.

And after probation may be declared not within the third section.

8. Every Indian examined by the Commissioners under this Chapter, shall, at the time of such examination, declare to them the name and surname by which he wishes to be enfranchised and thereafter known, such name being his baptismal name if he have one, and such surname any one he may choose to adopt which shall be approved by the Commissioners, and the Commissioners shall enter the same in their Report; and if such Indian is thereafter enfranchised under this Chapter, the name and surname so reported shall be those by which he shall thereafter be legally designated and known. 20 V. c. 26, s. 5.

Enfranchised Indian to take a name and surname.

9. Lists of Indians enfranchised under this Chapter and of any lands allotted to them under the authority thereof, shall from time to time be transmitted by the Indian Department to the Clerk of the township or other local municipality in which they reside at the time of such enfranchisement; and any Indian

Lists of Indians enfranchised under this Chapter.

Penalty on Indian falsely representing himself as enfranchised. Indian falsely representing himself as enfranchised under this Chapter when he is not so, shall be liable, on conviction before any one Justice of the Peace, to imprisonment for any period not exceeding six months. 20 V. c. 26, s. 6.

Land, &c. may be allotted to enfranchised Indians; and to what extent.

10. Every Indian enfranchised under this Chapter shall be entitled to have allotted to him by the Superintendent General of Indian affairs, a piece of land not exceeding fifty acres out of the lands reserved or set apart for the use of his Tribe, and also a sum of money equal to the principal of his share of the annuities and other yearly revenues receivable by or for the use of such tribe; such sum to be ascertained and paid to him by the said Superintendent, and due consideration being had in the allotment of such land to the quantity of land reserved for the use of the Tribe and to their means and resources; And such sum of money shall become the absolute property of such Indian, and such land shall become his property, subject to the provisions hereinafter made, but he shall by accepting the same forego all claim to any further share in the lands or moneys then belonging to or reserved for the use of his Tribe, and shall cease to have a voice in the proceedings thereof:

Condition of allotment.

If the tribe surrender other lands to the Crown.

2. But if such Tribe thereafter surrender to the crown other lands either to be sold for their benefit, or in consideration of an annuity, such enfranchised Indian, or his personal representatives (if any) shall be entitled to his share of the proceeds of such lands or of the annuity for which they were surrendered, such share to be ascertained and paid by the Superintendent General of Indian Affairs for the time being, and to be the absolute property of such enfranchised Indian or his said representatives. 20 V. c. 26, s. 7.

Wife and children of enfranchised Indian to be enfranchised.

11. The wife, widow, and lineal descendants of an Indian enfranchised under this Chapter, shall be also enfranchised by the operation thereof, and shall not be deemed members of his former tribe, unless such widow or any such lineal descendant being a female, marries an Indian not enfranchised and a member of such tribe, in which case she shall again belong to it and shall no longer be held to be enfranchised under this Chapter. 20 V. c. 26, s. 8.

Their rights.

12. The wife and children of any Indian enfranchised under this Chapter shall be entitled to their respective shares of all annuities or annual sums payable to the tribe; subject to the provisions hereinafter made as to such shares. 20 V. c. 26, s. 9.

Estate and rights of Indian in land allotted to him under this Chapter.

13. An Indian enfranchised under this Chapter, to whom any of the lands reserved for the use of his Tribe are allotted as aforesaid, shall have a life estate only therein, but he shall have power to dispose of the same by will to any of his children or lineal descendants, and if he dies intestate as to any such lands,

lands, the same shall descend to his children or lineal descendants according to the laws of that portion of the Province in which such lands are situate, and the said children or lineal descendants to whom such land is so devised or descends, shall have the fee simple thereof :

2. But if such Indian dies without leaving any child or lineal descendant but leaving a widow, she shall, instead of Dower, to which she shall not be entitled, have the said land for life or until her re-marriage, but upon her death or re-marriage it shall escheat to the Crown: and if any child or lineal descendant of such Indian takes such land or any part thereof, and dies leaving no lineal descendant and without having disposed of such land or part thereof by will or otherwise, it shall escheat to the Crown. 20 V. c. 26, s. 10.

Land to escheat in certain cases.

14. If any Indian enfranchised under this Chapter dies leaving any child under the age of twenty-one years, the Superintendent General of Indians shall become *ipso facto* the tutor of such child as to property and rights in Lower Canada, and the guardian of such child as to property and rights in Upper Canada, until it attains the age of twenty-one years; And the widow of such Indian, being also the mother of any such child, shall receive its share of the proceeds of the estate of such Indian during the minority of the child, and shall be entitled to reside on the land left by such Indian, so long as in the opinion of the Superintendent General she lives respectably. 20 V. c. 26, s. 11.

Superintendent General to be guardian or tutor of infant children of enfranchised Indians.

15. The capital of the annual share of the wife of any Indian enfranchised under this Chapter in any annuity or annual sum payable to her Tribe, shall be held in trust by the Superintendent General of Indian affairs for the purposes of this section, and the interest thereof shall be paid to her yearly while she is the wife or widow of such Indian, and upon her death or re-marriage one half of such capital sum shall be divided equally among her children, and the other half shall revert to the Tribe to which she belonged; but if she has no children, the whole shall revert to the said Tribe. 20 V. c. 26, s. 12.

As to the share of the wife of any enfranchised Indian in any annuity to her tribe.

16. The capital of the share of each child of an Indian enfranchised under this Chapter, in any annuity or annual sum payable to his Tribe, shall be held in trust by the Superintendent General of Indian Affairs for such child, and the interest thereon shall, except in the case hereinafter mentioned, be left to accumulate until such child shall obtain the age of twenty-one :

As to the shares of the children of enfranchised Indians in such annuity.

2. But if such child is put apprentice to any trade, the money so held in trust for him may be wholly or in part applied to the payment of his apprentice fee or other expenses attending such apprenticeship; And if any such child dies before attaining the age of twenty-one, one half the money then

Proviso.

then held in trust for him shall revert to his Tribe, and the other half shall go to the other child or children of such Indian, and in equal shares if there is more than one, and if there is no other child, then the whole shall revert to the Tribe. 20 V. c. 26, s. 13. 5

Lands allotted to enfranchised Indians to be liable for taxes.

17. Lands allotted under this Chapter to an Indian enfranchised under it, shall be liable to taxes and all other obligations and duties under the Municipal and School Laws of the section of this Province in which such land is situate, as he shall also be in respect of them and of his other property; and his estate therein shall be liable for his *bonâ fide* debts, but he shall not otherwise alienate or charge such land or his estate therein; and if such land is legally conveyed to any person, such person or his assigns may reside thereon, whether he is or is not of Indian blood or intermarried with any Indian. 20 V. c. 26, s. 14. 10 15

Indian Reserves or any part of them may be attached to School Sections or Districts

18. The Council of any Municipality in Upper Canada, or the School Commissioners of any School Municipality in Lower Canada, may, on application of the Superintendent General of Indian affairs, attach the whole or any portion of any Indian Reserves in such Municipality to a neighboring School Section or District, or to neighboring School Sections or Districts, and such land shall thereupon become a portion of the School Section or district to which it is attached, to all intents and purposes. 20 V. c. 26, s. 15. 20 25

TITLE

TITLE 2.

EXECUTIVE GOVERNMENT AND PUBLIC OFFICERS GENERALLY.

CAP. X.

An Act respecting the Governor, Civil List, and Salaries of certain Public Officers.

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

OF THE GOVERNOR, OR PERSON ADMINISTERING THE GOVERNMENT.

1. The Governor, Lieutenant Governor, or person administering the government of this Province for the time being, and his successors, shall be a corporation sole;—and all bonds, recognizances, and other instruments by law required to be taken to him in his public capacity, shall be taken to him and his successors, by his name of office, and may be sued for and recovered by Him or his successors, by his or their name of office as such;—and the same shall not in any case go to or vest in the personal representatives of such Governor, Lieutenant Governor, or person administering the Government during whose government thereof the same were so taken. 12 V. c. 10, s. 4.

Governor to be a corporation sole.

OF THE CIVIL LIST.

2. There shall be payable in every year to Her Majesty, Her Heirs and Successors, out of the Consolidated Revenue Fund of this Province, a sum not exceeding forty-seven thousand nine hundred and eighty-eight pounds fifteen shillings and six pence, currency, for defraying the expense of the several services and purposes named in the following Schedule A:

A sum not exceeding £47,988 15s 6d, appropriated for the purposes mentioned in Schedule A.

And during the life of Her Majesty, and for five years after the demise of Her Majesty, there shall be payable in every year to Her Majesty, Her Heirs and Successors, out of the said Consolidated Revenue Fund, a further sum not exceeding thirty-nine thousand, two hundred and forty-five pounds sixteen shillings, currency, for defraying the expense of the several services and purposes named in the following Schedule marked B;

And a sum not exceeding £39,245 16s for the life of Her Majesty and 5 years after, for the purposes mentioned in Schedule B.

The said sums shall be issued by the Receiver General in discharge of such Warrants as shall be from time to time directed to him under the hand and seal of the Governor. 9 V. c. 114, s. 3.

The said sums to be paid by the Receiver General on warrants.

SCHEDULE

SCHEDULE (A.)

OFFICES, &c.	Amount payable while the Incumbent on the 10th June 1857, is in Office. Currency.	Amount to be allowed to Incumbents appointed after the 10th of June, 1857. Currency.
	£ s. d.	£ s. d.
Governor General, to be in lieu of Fees, Seizures and Forfeitures, £7,000 Sterling.....	7777 15 6	7777 15 6
UPPER CANADA.		
One Chief Justice of the Court of Queen's Bench.....	1666 13 4	1250 0 0
Two Puisne Justices of the said Court, at £1000 each	2000 0 0	2000 0 0
One Chief Justice of the Court of Common Pleas.....	1250 0 0	1250 0 0
Two Puisne Justices of the said Court, at £1000 each	2000 0 0	2000 0 0
One Chancellor.....	1250 0 0	1250 0 0
Two Vice Chancellors, at £1000 each.....	2000 0 0	2000 0 0
LOWER CANADA.		
One Chief Justice of the Court of Queen's Bench.....	1250 0 0	1250 0 0
Four Puisne Judges of the said Court at £1000 each	4000 0 0	4000 0 0
One Chief Justice of the Superior Court.....	1250 0 0	1250 0 0
Six Puisne Judges of the said Court at Quebec and Montreal, at £1000 each.....	6000 0 0	6000 0 0
Three other Puisne Judges of the said Court at £1000 if appointed before the 10th of June 1857, and at £800 if appointed after that day.....	3000 0 0	2400 0 0
Five other Puisne Judges of the said Court at £800 each.....	4000 0 0	4000 0 0
Two other Puisne Judges of the said Court residing in the District of Gaspé and one in the District of Saguenay, at £700 each.....	2100 0 0	2100 0 0
Pensions to Judges.....	2222 2 4	2222 2 4
Attorneys and Solicitors General, Salaries and Allowances for Contingencies.....	3900 0 0	3900 0 0
Court of Vice-Admiralty.....	472 4 4	470 0 0
Circuit Allowances to Judges.....	1550 0 0	1550 0 0
Permanent Clerk attached to Crown Law Department.	300 0 0	300 0 0
Totals, Currency.....£	47988 15 6	46969 17 10

9 V. c. 114, Schedule A, as amended by 18 V. c. 89 and 20 V. c. 44.

SCHEDULE

SCHEDULE (B.)

OFFICES, &c.	Amount payable while the Incumbents on the 11th October, 1847, are respectively in Office.	Amount to be allowed as Vacancies occur by Removal of the Incumbents after the 11th October, 1847.
	Currency.	Currency.
	£ s. d.	£ s. d.
Governor's Secretary, and his Office.....	1925 8 6	1536 0 0
Provincial Secretary, and his Office.....	4423 1 10	4242 0 0
Registrar's Office, to merge in the Provincial Secretary's Office after the Incumbency on the coming into force of 9 V. c. 114.....	1083 6 6	650 0 0
Receiver General's Office.....	2300 8 8	2056 0 0
Inspector General, and his Office.....	4022 13 4	3856 0 0
Executive Council Office.....	2922 4 4	2637 0 0
Board of Management of Public Works.....	2094 17 7	2000 0 0
Emigrant Agent.....	752 4 2	752 4 2
Pensions.....	5555 11 1	5555 11 1
Indian Annuities.....	6666 0 0	6666 0 0
Contingencies of Public Offices.....	7500 0 0	7500 0 0
Totals, Currency.....	£ 39245 16 0	37450 15 3

9 V. c. 114, Schedule B.

3. The sums set down in the first column opposite to each Office or Department in the said Schedules A and B, shall be payable for each, while the Incumbents, at the time therein mentioned, respectively remain in office; and as often as any such Incumbent ceases to hold such office, the sums respectively mentioned in the first column shall cease to be payable, and the sums mentioned in the second column shall, as each case arrives, be payable instead of those in the said Schedules mentioned. 9 V. c. 114, s. 4.
4. The Governor may abolish any of the offices named in the Schedule B, or vary the sums thereby appropriated, to such purposes connected with the administration of the Government of this Province, as to Her Majesty shall seem fit;—And accounts in detail of the expenditure of the several sums expended under the authority of this Act, shall be laid before both Houses of the Legislature within thirty days from the beginning of the Session next after such expenditure is made:
- But not more than two thousand, two hundred and twenty-two pounds, two shillings and four pence shall be payable at the same time for pensions to the Judges out of the sum mentioned in the said Schedule A, and not more than five thousand, five hundred and fifty-five pounds, eleven shillings and one penny, shall be payable at the same time for pensions out of the sum mentioned in the Schedule B; and a List of all such pensions, and of the persons to whom
- The sums in the first column of the said Schedules to be those payable while the Offices are held by certain incumbents, afterwards those in the second column.
- Offices named in Schedule B may be abolished, and the appropriation of the sums therein mentioned may be varied.
- Proviso: as to pensions.
- Pension lists to be laid year-

ly before the Legislature. the same have been granted, shall be laid in every year before the Legislature ;

Pensions. No pension shall be granted except to Judges retiring from office, or under the express provisions of some Act of the Provincial Parliament allowing such Pension ; and the sum to be paid for pensions under the Schedule B hereunto annexed, shall never exceed the amount of the pensions granted under the same before the nineteenth day of March, 1852, and such Pensions shall cease on the death of the Grantees respectively ; but all Pensions theretofore granted by the Crown shall continue to be paid during the lives of the Grantees respectively. 9 V. c. 114, s. 5, as amended by 14, 15 V. c. 173, s. 4.

Civil List. **5.** During the time for which the sums mentioned in the said Schedules are severally payable, the same shall be accepted and taken by Her Majesty by way of Civil List instead of all territorial and other revenues at the disposal of the Crown arising in this Province ;--And three-fifths of the net produce of the said Territorial and other Revenues at the disposal of the Crown within this Province, before the day last aforesaid, shall be paid over to the account of the said Consolidated Revenue Fund :

Surrender of hereditary revenues of the Crown while the sums in the said Schedules remain payable.

And also during the life of Her Majesty, and for five years after the demise of the Crown, the remaining two-fifths of the net produce of the said Territorial and other Revenues at the disposal of the Crown within this Province, before the day last aforesaid, shall also be paid over in like manner to the account of the said Consolidated Revenue Fund. 9 V. c. 114, s. 6.

SALARIES OF CERTAIN PUBLIC OFFICERS FIXED.

6. The following shall be the Salaries payable to the officers hereinafter mentioned, respectively :

Salaries of certain functionaries.

1. To each of the following Officers, namely : The President of Committees of the Executive Council, the Attorney General for Lower Canada, the Attorney General for Upper Canada, the Receiver General of this Province, the Commissioner of Crown Lands, the Chief Commissioner of Public Works, the Postmaster General, the Provincial Secretary, and the Inspector General of Public Accounts, twelve hundred and fifty pounds, per annum : 18 V. c. 89, s. 1.

Speaker Legislative Council, when also a member of Executive Council.

2. To the Speaker of the Legislative Council, when he is also a Member of the Executive Council for this Province, twelve hundred and fifty pounds, per annum ; 18 V. c. 89, s. 1.

3. To the Speaker of the Legislative Council when he is Speaker Le-
 not a Member of the said Executive Council, five hundred gislative
 pounds, per annum ; unless he holds any other office of profit Council when
 under the Crown, and then one hundred pounds per annum : not a member
 of the Execu-
 tive Council.
 5 14, 15 V. c. 174, s. 2.
4. To the Speaker of the Legislative Assembly, five hundred Speaker of the
 pounds per annum : 14, 15 V. c. 174, s. 2. Legislative
 Assembly.
5. To the Solicitor General for Lower Canada and to the Solicitors Ge-
 Solicitor General for Upper Canada, each, seven hundred and neral.
 10 fifty pounds per annum. 18 V. c. 89, s. 1.
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C A P . X I .

An Act respecting the Civil Service generally.

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

APPOINTMENTS.

Appointments, how made. **1.** No appointment shall be made, except as hereinafter provided, in any of the offices or departments in Schedule A hereunto appended. 20 V. c. 24, s. 1.

No appointment, except with the approval of the Governor in Council. **2.** No appointment to any office or situation in any of the departments included in the said Schedule, shall be made except with the approval of the Governor of this Province. *Ibid*, s. 2.

OFFICERS AND CLERKS.

Division into Officers and Clerks. **3.** The persons composing the Staff of each of the departments included in said Schedule, shall be divided into two classes, namely, "Officers and Clerks;" and for the purposes of this chapter, the term "Officers" shall be held to mean the persons included in Schedule B, exclusive of landing waiters and railway mail Clerks. *Ibid*, s. 3.

Classes of Clerks. **4.** The Clerks shall be divided into four classes, namely :
First class Clerks, second class Clerks, third class Clerks, and fourth class or probationary Clerks, respect being had to their relative ability and length of service. *Ibid*, ss. 4 and 12.

Salaries. **5.** To the Offices included in Schedule B to this Chapter, shall be attached the fixed salaries therein mentioned, subject to the provision in the next section. *Ibid*, s. 5.

Present salaries saved. **6.** No salary of any Officer, Clerk, Messenger or other person, fixed before the tenth day of June, 1857, shall be lowered by the provisions of this chapter. *Ibid*, s. 6.

Each head of a department to have a Deputy. **7.** In each of the said departments, there shall be one Officer who shall be the deputy of the Head of the department, and who shall have the oversight of the other Officers, Clerks and Messengers or Servants, and the general control of the business of the department, and whose directions shall be obeyed in like manner as the directions of the Head of the Department would be ;—And the authority of such deputy shall be deemed to be that of the Head of the Department, without prejudice however to the control of the latter in all matters whatever :
Provided

Provided that this Section shall not apply to the Audit and Customs Branches of the Inspector General's Department. *Ibid*, s. 7.

8. The following Officers shall be by virtue of their office the Deputy Heads of Departments for the purposes of the last preceding section : What Officers shall be such Deputies.

1. Executive Council :
The Clerk ;
 10. 2. In the Provincial Secretary's Office :
Lower Canada Branch—The Assistant Provincial Secretary for Lower Canada ;
Upper Canada Branch—The Assistant Provincial Secretary for Upper Canada ;
 15. 3. In the Inspector General's Department :
The Deputy Inspector General ;
 4. In the Receiver General's Department :
The Deputy Receiver General ;
 5. In the Postmaster General's Department :
The Deputy Postmaster General ;
 20. 6. In the Crown Lands Department :
The Assistant Commissioner of Crown Lands ;
 7. In the Department of Public Works :
The Secretary ;
 25. 8. In the Bureau of Agriculture :
The Secretary. *Ibid*, s. 8.
9. Each Officer, while so acting as deputy, shall receive Allowance to in addition to his stated salary a further sum at the rate of fifty Deputies. pounds per annum. *Ibid*, s. 9.
10. 10. During the illness or absence of the deputy, the Head Temporary of the Department may appoint another officer temporarily to duties. discharge the duties of such deputy, and notice of such temporary appointment shall be communicated in writing to every officer and clerk in such department. *Ibid*, s. 10.
35. 11. The Officer so appointed, and while discharging the Allowance to duties of the deputy, shall be entitled to receive the additional them. salary allowed to such deputy. *Ibid*, s. 11.

Board

BOARD OF EXAMINERS.

Board of Examiners. **12.** There shall be a Board, to be called the Board of Examiners for the civil service. *Ibid*, s. 13.

How constituted. **13.** Such Board shall consist of the persons who, for the time being, fill the offices following, viz :

1. Clerk of the Executive Council ;
2. Assistant Provincial Secretary East ;
3. Assistant Provincial Secretary West ;
4. Deputy Inspector General. ;
5. Commissioner of Customs ;
6. Auditor of Public Accounts ;
7. Deputy Receiver General ;
8. Deputy Postmaster General ;
9. Assistant Commissioner of Crown Lands ;
10. Secretary of Public Works Department ;
11. Secretary Bureau of Agriculture ;
12. Deputy Provincial Registrar. *Ibid*, s. 14.

Quorum. **14.** Five of the members of the said Board shall be a *quorum* thereof, and may exercise all the functions of the Board. *Ibid*, s. 15.

Each member to act as Chairman in turn. **15.** It shall be the duty of each of the members of the said Board, (in the order in which his office is named in section 13,) to act for one month as Chairman of the Board, and to preside at all meetings thereof held during such month; but in his absence any member of the Board then present may be selected by the others to preside as Chairman. *Ibid*, s. 16.

Minutes of proceedings. **16.** Minutes of the proceedings of the Board shall be kept by the Chairman ; and he shall certify the same. *Ibid*, s. 17.

DUTIES OF THE BOARD.

17. It shall be the duty of the Board,—

Making regulations. 1. To frame and publish regulations to be observed by candidates for employment in the civil service of Canada, such

such regulations being first approved by the Governor in Council. *Ibid*, s. 18.

2. To examine all candidates who present themselves in accordance with the regulations of the Board, and any other regulations or restrictions provided under this chapter. *Ibid*, s. 19. Examining candidates.

3. To keep a record of the candidates for examination—showing the name, age, place of birth, and residence of each candidate and the result of his examination, mentioning the particular branch of the civil service (if any) for which any candidate passing the examination has, in the opinion of the examiners, shown any special aptitude. *Ibid*, s. 20. Register of candidates.

4. To grant certificates of qualification to candidates whose examination as to fitness and whose testimonials as to moral character have been found satisfactory. *Ibid*, s. 21. Certificates of qualification.

5. To cause to be transmitted to the Clerk of the Executive Council with all convenient speed, copies of the minutes of the proceedings of Board at each sitting thereof—and such copies shall be certified by the Chairman. *Ibid*, s. 22. Copies of minutes for Executive Council.

EXAMINATIONS.

18. No person shall be admitted to examination except on application in his own hand writing; and such application must set forth his age, his place of birth, his place of residence, and be otherwise in accordance with the orders or regulations framed and published by the Board of Examiners for the Civil Service. *Ibid*, s. 23. Conditions of examination.

19. No person under sixteen years of age, shall be competent for examination. *Ibid*, s. 24. Age of candidates.

20. Notice of the monthly meetings for examination of candidates and of the regulations to be observed by such candidates, shall be published in such manner as may be determined by the Board. *Ibid*, s. 25. Notice of meetings.

21. A meeting of the Board of Examiners for the Civil Service shall be held on the fourth Monday of each month, and their proceedings shall commence at the hour of ten in the forenoon. *Ibid*, s. 26. Times of meeting.

22. All meetings of the Board shall be held at the office of the Provincial Secretary. *Ibid*, s. 27. Place of meeting.

23. The Clerk of the Executive Council shall file the minutes of proceedings of the Board of Examiners for the Civil Service, and keep a registry of the name and residence of each candidate. Register of candidates found qualified.

candidate to whom a certificate of qualification has been granted, with the date of such certificate. *Ibid*, s. 28.

APPOINTMENTS TO OFFICE AND SALARIES TO CLERKS.

Filling vacancies among Clerks.

24. Whenever through death, resignation, removal or promotion, a vacancy occurs in any of the classes of Clerks of the departments included in Schedule A, the Head of the department in which the vacancy occurs, shall select for promotion to such vacancy the most suitable person from the Clerks in the said department filling situations of lower rank or emolument than that attached to such vacant clerkship;— And if the Head of the Department is unable under this provision to fill such vacancy, or whenever the increased business of such department requires augmentation of the Staff, application in writing shall be made by the Head of such department to the Executive Council, and the Clerk of the Executive Council shall bring the application under the notice of the Committee of Council at the next meeting thereof. *Ibid*, s. 29.

Only certified candidates to be appointed.

25. Except in the case mentioned in the next section, no appointment to any office or clerkship in any of the departments included in Schedule A, shall be made except from among those candidates who, having passed their examination, are registered by the Board of Examiners as proper persons to be employed in the Civil Service of Canada, except under the next section. *Ibid*, s. 30.

Act not to prevent promotion of any Officer, &c.

26. But nothing in this Chapter shall prevent the promotion in his own department, or the appointment to any other office or situation in the Public Service, of any Officer, Clerk or other person employed in any of the departments in Schedule A, on the tenth day of June, 1857. *Ibid*, s. 31.

Candidates to enter as fourth class Clerks.

27. Persons selected from among those registered by the Board of Examiners as proper persons to be employed in the Civil Service of Canada, and appointed under the provisions of this Chapter, shall enter the said service as fourth class or probationary Clerks. *Ibid*, s. 32.

Salary.

28. Fourth Class Clerks shall receive from the date of their appointment a salary at the rate of one hundred and twenty-five pounds per annum. *Ibid*, s. 33.

Promotion.

29. Fourth Class Clerks after two years' service, if deemed qualified, may be promoted to the third class. *Ibid*, s. 34.

Third class Clerks.

Salary.

30. Third Class Clerks shall commence at a salary of one hundred and fifty Pounds per annum, with an annual increase of ten Pounds till the maximum in that class of two hundred pounds per annum is attained. *Ibid*, s. 35.

- 31.** Third Class Clerks 'after six years' service as such, if deemed qualified, may be promoted to the Second Class. *Ibid*, s. 36. Promotion.
- 32.** Second Class Clerks shall commence at a salary of two hundred and twenty-five pounds per annum, with an annual increase of ten pounds till the maximum of two hundred and seventy-five pounds in that class is attained. *Ibid*, s. 37. Second class Clerks, Salary.
- 33.** Second Class Clerks after six years' service as such, if deemed qualified, may be promoted to the rank of First Class Clerks. *Ibid*, s. 38. Promotion.
- 34.** First Class Clerks shall commence at a salary of three hundred pounds per annum, with an annual increase of ten pounds per annum till the maximum of three hundred and fifty pounds is attained. *Ibid*, s. 39. First class Clerks. Salary.
- 35.** Whenever any of the Offices included in Schedule B, exclusive of those of landing waiters and railway mail Clerks, is vacant, the Head of the department shall first give due consideration to the claims of all the Officers and of the Clerks of the First, Second and Third Classes in such Department, with a view to selecting the most suitable person to fill the vacancy;— And in the event of the Head of any department included in Schedule A, being unable to select under the foregoing provisions a person completely fitted to fill the vacancy, then the Head of the Department shall report such vacancy to the Governor in Council, in order that it may, if possible, be filled from amongst the Officers, and First, Second and Third Class Clerks of the other departments included in Schedule A. *Ibid*, s. 40. Filling vacancies among Officers.
- 36.** Nothing herein contained shall limit the power of the Governor to direct the dismissal, suspension or reduction in rank or class of any Officer, Clerk or other person employed in any of the departments in Schedule A. *Ibid*, s. 41. Act not to prevent dismissal.
- 37.** Except under Order in Council, no extra Clerk shall be employed in any department included in Schedule A, unless for a period not exceeding one month, or to fill a temporary vacancy caused by the illness or necessary absence of an Officer or Clerk. *Ibid*, s. 42. Employment of extra Clerks limited.
- 38.** Such of the foregoing provisions as make it necessary that any vacancy in the Offices in Schedule B be filled from among the Officers and Clerks in the same or any other department, shall not apply to the Survey Branch of the Crown Lands Department, or to the Engineer or any Assistant Engineer, Architect or Draughtsman in the Public Works. Certain provisions of the Act not to affect certain Officers.

Works Department, or to the Office of Book-keeper;—but any vacancy in the said offices may be filled as heretofore, if the Head of the department does not think any Officer or Clerk properly qualified to fill the same. *Ibid*, s. 43.

SCHEDULE *A* referred to in Section 1.

- 1.—Executive Council Office ;
- 2.—Provincial Secretary's Office ;
- 3.—Inspector General's Department, including the Customs and all other Offices connected therewith ;
- 4.—Receiver General's Department ;
- 5.—Postmaster General's Department ; and all Offices connected therewith to which fixed annual Salaries are attached ;
- 6.—Crown Lands Department ;
- 7.—Public Works Department ,
- 8.—Bureau of Agriculture and Statistics. *Schedule A, 10*
20 V. c. 24.

SCHEDULE *B* referred to in Sections 3 and 5.

EXECUTIVE COUNCIL OFFICE.

Clerk of Executive Council.....	£600
Confidential Clerk.....	£450

PROVINCIAL SECRETARY'S OFFICE.

Assistant Provincial Secretary, Lower Canada branch,	£600
Assistant Provincial Secretary, Upper Canada branch,	£600

Registrar's Branch.

Deputy Provincial Registrar.....	£400
Assistant Registrar.....	£300

INSPECTOR GENERAL'S DEPARTMENT.

Deputy Inspector General.....	£600
Ch of Clerk.....	£450
Book-Keeper.....	£400

Customs

Customs Branch.

Commissioner of Customs..... £600
 Inspector of Western Ports..... £400
 Inspector of Eastern Ports..... £400

	Sea Ports—(Quebec and Montreal.)											
	Ports where Revenue collected exceeds £250,000.		Ports where Revenue collected is under £250,000 and not under £100,000.		Ports where Revenue collected is under £100,000 and not under £35,000.		Ports where Revenue collected is under £35,000 and not under £15,000.		Ports where Revenue collected is under £15,000 and not under £10,000.		Ports where Revenue collected is under £10,000 and not under £5,000.	
	£	£	£	£	£	£	£	£	£	£	£	£
Collector.....	750	750	650	500	400	350	300	250	225	200	175	150
Surveyor.....	450	450	350	300	250	225	200	175	175			
Chief Clerk.....	400	400	300	250	200	175	175					
Appraiser.....	350	350	250	200	175							
Chief Landing Waiters	300	300	200									
Landing Waiters.....	150	125	100	100	90	75	75	75	50	50	50	50
	to	to	to	to	to	to	to	to	to	to	to	to
	250	225	150	150	140	125	125	125	100	100	100	100

Audit Branch.

Auditor of Public Accounts..... £600
 Book-Keeper..... £400

RECEIVER GENERAL'S DEPARTMENT.

Deputy Receiver General..... £600
 Book-Keeper..... £400

POSTMASTER GENERAL'S DEPARTMENT.

Deputy Postmaster General..... £600
 Accountant..... £500
 Secretary..... £450
 Cashier..... £400

Money Order Branch.

Superintendent..... £550

Postal Divisions.

Inspector..... £500

City

City Post Offices.

	Where Revenue exceeds £6,000 per annum.	Where Revenue exceeds £3,000 and is under £6,000 per annum.
Postmaster	£500	£400
Assistant Postmaster	£350	£250

Railway Mail Service.

(Foreign.)

	On Appointment.	After five years' service in any capacity in Post Office Department.	After ten years' service in any capacity in Post Office Department.
Mail Clerk	£225	£250	£300

Railway Mail Service.

(Home.)

	On Appointment.		After two years' Service in any class of Railway Clerks.		After five years' Service in any class of Railway Clerks.		After ten years' Service in any class of Railway Clerks.	
	Day Service.	Night Service.	Day Service.	Night Service.	Day Service.	Night Service.	Day Service.	Night Service.
Mail Clerks	£	£	£	£	£	£	£	£
{ 1st Class	180	220	200	250	220	275	240	300
{ 2nd Class	150	180	160	200	180	220	200	250
{ 3rd Class	120	150	130	160	140	175	160	200

CROWN LANDS DEPARTMENT.

Assistant Commissioner	£600
Deputy Surveyor General	£600
Accountant	£400
Surveyors and Draughtsmen, Salaries from	£150 to £300

Land

Land Sales Branch.

Superintendent £350

Woods and Forest Branch.

Superintendent £350

PUBLIC WORKS DEPARTMENT.

Secretary £600
 Chief Engineer £750
 Architect £750
 Assistant Engineer and Draughtsman £450
 Book-keeper £400

BUREAU OF AGRICULTURE AND STATISTICS.

Secretary £400
Schedule B to 20 V. c. 24.

CAP. XII.

An Act respecting the Commissions of Public Officers, and the Oaths of Office and Security to be taken and given by them.

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

COMMISSIONS.

No new Commissions need be issued at the commencement of a new Reign, but a Proclamation, continuing all Public officers, &c., in their respective offices, shall issue and be sufficient.

1. Upon the demise of the Crown, it shall not be necessary to renew any commission, by virtue whereof any Public Officer or Functionary in this Province held his office or profession, during the previous Reign,—but a proclamation shall be issued by the Governor, authorizing all persons in office who held commissions under the late Sovereign, and all Functionaries who exercised any profession by virtue of any such commissions to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of allegiance before the proper officer or officers thereunto appointed ;

Oath of Allegiance to the Sovereign to be taken.

And such Proclamation being issued, and oath taken, each and every such Public Officer and Functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully, as if appointed *de novo* by Commission derived from the Sovereign for the time being ; and all acts and things *bonâ fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties and functions, between the time of such demise and the proclamation so to be issued, (such oath of allegiance being always duly taken) shall be deemed to be legally done, and valid accordingly. 7 V. c. 8, s. 1.

Acts done by such Public Officers, &c., to be valid.

Saving the rights of the Crown.

2. Nothing in the next preceding section shall prejudice or in any wise affect the rights or prerogative of the Crown with respect to any office or appointment derived or held by authority from it, nor prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. 7 V. c. 8, s. 2.

OATHS OF ALLEGIANCE AND OFFICE, &c.

No other oath but those hereinafter described to be required of certain Officers.

3. It shall not be necessary for any person appointed to any office in this Province, civil or military, or any Mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a Barrister, Advocate, Notary Public, Attorney, Solicitor or Proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say :

“ I,

“ I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, (or the reigning Sovereign for the time being,) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province dependent on and belouging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them ;—And all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or power whatever to the contrary ; So help me God.”

Oath of Allegiance.

And also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as is required by any law in that behalf. 13, 14 V. c. 18, s. 2.

Oath for faithful performance of duties.

4. The form hereinbefore set forth, and no other, shall be that of the oath of allegiance to be administered to and taken by every person in this Province who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any statute either of the Imperial or Provincial Parliament, desires to take an oath of allegiance :— And all Magistrates and other Officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of this Province. 13, 14 V. c. 18, s. 3.

The said form and no other to be that to be used in all cases in this Province.

Who may administer it.

5. The oath of Allegiance hereinbefore set forth, together with the oath of office or oath for the due exercise of any profession or calling, shall be taken within the period, and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such oaths, in all such cases respectively. 13, 14 V. c. 18, s. 4.

Oath to be taken within the time now by law provided, &c.

6. All persons allowed by law to affirm instead of swearing in civil cases in any part of this Province, shall be received to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance, and such affirmation of allegiance taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath ; and shall as to such affirmants have the like effect as the said oath of allegiance :—And all Magistrates and other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the affirmation of allegiance in any part of this Province. 13, 14 V. c. 18, s. 5.

Affirmation instead of oath in certain cases.

Its effect.

By whom it may be administered.

NO RELIGIOUS TEST REQUIRED.

No person need take the Sacrament as a qualification for any office. 7. It shall not be necessary for any person for the purpose of qualifying himself to hold office in this Province, or for any other temporal purpose, privilege or advantage whatsoever within the same,---to receive the Sacrament of the Lord's Supper according to the rites or usages of the Church of England, or to deliver a certificate or make proof of his having received the said Sacrament in manner aforesaid ;---And no person shall within this Province, be subject to any penalty, forfeiture, incapacity or disability whatsoever, for or by reason of his not having so taken or received the said Sacrament. 13, 14 V. c. 18, s. 6.

No penalty incurred for not taking it.

SECURITY BY PUBLIC OFFICERS.

Bonds, with sureties, to be given by persons appointed Public Officers. 8. Every person appointed to any civil office, or employment or commission, in any public department within this Province,---or to any such office or employment of public trust under the Crown,---or wherein he shall be concerned in the collection, receipt, disbursement or expenditure of any public money,---and who by reason thereof is required to give security with surety or sureties, or otherwise,---shall, within one month after notice of such appointment, if he is then within this Province, or within three months, if he is then absent from this Province, (unless he sooner arrives in the said Province, and then within one month after such arrival) give and enter into a bond or bonds or other security or securities, in such sum and with such sufficient surety or sureties as may be approved of by the Governor, or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control. 4, 5 V. c. 91, s. 1.

Bonds, &c., to be enregistered with Registrar of the Province. 9. Every person who by reason of his appointment to any civil office or employment or commission as aforesaid, or who by reason of being concerned in the collection, receipt, disbursement or expenditure of any public moneys, gives or enters into any bond or other security, for the due performance of the trust reposed in him,---or for the duly accounting for of public moneys entrusted to him,---shall cause every such bond or security to be recorded at full length at the office of the Registrar of this Province, in manner hereinafter mentioned,---and shall forthwith after such registration, deposit the original bond or security at the office of the Inspector General of Public Provincial Accounts :

Time of Registry.

And every such bond or security shall be recorded and deposited as aforesaid, within one month, after being entered into or given, if the person on whose behalf it is entered into or given resides or is within this Province, and if he is absent therefrom, then

then within three months after being entered into or given, unless such person arrives sooner within the Province, and then within one month after such arrival. 4 V. c. 91, s. 3.

10. The said Registrar shall make an entry, and shall, if required, give a certificate in writing under his hand and seal, of every such bond or security brought to him to be registered, as aforesaid, and therein shall mention the day on which such bond or security is so registered, expressing also in what book, page, or number the same is recorded ;

Registrar of Province to enter every such bond, &c., and to give certificate, if required.

10 For the purpose of so registering bonds or securities under this chapter, the Registrar shall provide a separate Register Book, every page of which and every bond or security recorded therein, shall be numbered, and the day of the month and year when every such bond or security is registered, shall be entered in the margin of the said Register Book, and in the margin of the bond or security ;

Registrar of Province to keep a separate book for such entries.

The said Registrar shall keep a separate Alphabetical List of the names of the principals and sureties mentioned in such bonds or securities, with references to the book, page or number, where the bonds or securities containing such names are to be found, and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands. 4, 5 V. c. 91, s. 4.

Registrar to keep alphabetical list of such names.

11. If any person who by reason of his appointment to, or holding of any such civil office, or employment or commission in any public department, or of public trust, or who by reason of being concerned in the collection, receipt, the disbursement or expenditure of any public money, is required or bound to give any such security, or to register and deposit any such bond or security, as aforesaid, neglects to give such security and to cause such bond or security to be duly registered and deposited in the manner and within the period herein prescribed,—he shall be liable to forfeit the appointment, office, employment or commission in respect whereof such security ought to have been given, and such bond or security registered and deposited as aforesaid, and his appointment or commission shall be void from and after the time when the Governor declares the same to be avoided under this chapter;—But such avoidance shall not annul or make void any act or order or other matter or thing done by such person during the time he actually held such appointment, office, employment or commission :

Forfeiture of Commission upon non-compliance with certain requirements of this chapter.

No such forfeiture shall take place by reason of any such bond or security not being registered or deposited where the proper sureties have been given, and the proper bond made out, and when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance ;—but in every such case a new bond or security specifying

Exceptions.

specifying the reason of such delay, shall be made out and signed, registered and deposited within the like period after the person giving such security receives notice of the loss, (regard being had to the place where he then is) as is required by this chapter for the registry thereof, if such loss had not occurred. 4, 5 V. c. 91, s. 5, *as amended* by 16 V. c. 87, s. 1.

Death, bankruptcy, or departure of any surety, to be notified, and new security executed.

12. Every such person as aforesaid who has given any bond or other security with surety or sureties for the due execution of the trust reposed in him, or for duly accounting for public moneys coming to his hands,—shall give notice in writing to the Secretary of the Province, or to the principal officer or person of the department to which he belongs, of the death, bankruptcy, insolvency or residence out of the Province of any surety of person bound for or with him in any such security :

Penalty for neglect.

Such notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in this Province, or within three months if he be out of this Province, (unless he sooner arrives in the Province, and then within one month after such arrival;—And any person who neglects to give such notice within such period as aforesaid, shall forfeit to the use of Her Majesty one fourth part of the sum for which the surety so dead or bankrupt or insolvent or resident out of the Province, became security, to be recovered in any court of competent jurisdiction, by action of debt or information at the suit of the Crown ;

Neglect of providing new surety.

And every such person who upon the death, bankruptcy, insolvency or residence out of the Province of any surety, neglects to give the security of another surety to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of the Province was approved, within such period from his having given notice of the death, bankruptcy or insolvency or residence out of the Province of the former surety as is by this chapter limited for giving, registering and depositing the original security,—and neglects to register and deposit the bond or security of such new surety within such period from his having given the security of such new surety as is by this chapter limited for the enregistering and depositing of the original bond or security (the same regard being had to the place in which such persons may then be,)—shall be liable to forfeit his appointment, office, employment or commission, and his appointment or commission shall be void from and after the time when the Governor declares the same to be avoided, in like manner and under and subject to such provisions as aforesaid. 4, 5 V. c. 91, s. 6, *as amended* by 16 V. c. 87, s. 1.

Liability to forfeit appointment.

How sureties of Public Officers may relieve themselves from

13. When any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty, such person when no longer disposed to continue such responsibility, may give notice thereof to his

his principal, and also to the Secretary of the Province,—and all further res-
 accruing responsibility on the part of such person as such Su-
 rety, shall cease at the expiration of one month from the receipt
 of the last of such notices ; And the principal shall, within that
 5 period, give the security of another surety, and register and de-
 posit the Bond of such new surety, or in default of so doing, New sureties
 shall be liable to forfeit and be deprived of the appointment, to be found.
 office, employment or commission in respect whereof such new
 security ought to have been given, in the manner and subject
 10 to the provisions hereinbefore set forth. 14, 15 V. c. 80,
 s. 1.

14. The Governor in Council may remit the forfeiture or Where neglect
 15 penalty in any case in which the failure to give security, is not wilful,
 or to register and deposit any bond or security under this the Governor
 chapter, has not arisen from any wilful neglect of the person may remit the
 bound to give, register or deposit the same : forfeiture, &c.

And if it appears to the Governor, that the period herein be- Or may extend
 fore limited for giving the security of a new surety as afore- the time
 20 said, is in consequence of particular accidents, casualties or cir- allowed for
 cumstances insufficient, or that by reason of the distance or loss giving secu-
 of letters or illness, or the refusal of any surety to give the security, rity, &c.
 or of such surety not being deemed eligible and being rejected, or
 any other accident or casualty, further time will be necessa-
 25 ry to enable the security of such new surety to be given,—the
 Governor in Council may allow such further period for giving
 the security of such new surety as appears to him reasonable
 and proper ;

But such extended period shall in no case exceed two Extended pe-
 30 months beyond the period allowed by this chapter, and riod not to
 the precise period proposed to be allowed, together with the exceed two
 special grounds for allowing the same, shall be either entered months,
 in the book in which the original security has been registered
 or endorsed on the back of the original bond or other security
 35 itself : And the person required to give the security of such new
 surety shall not be subject to any forfeiture or penalty for not
 giving the same within the time limited by this chapter, if he
 gives it within the extended period so allowed as aforesaid.
 40 4, 5 V. c. 91, s. 7, but see the next section which seems to super-
 sede the latter part of this.

15. The Governor may approve of the security given, or of Governor may
 the affidavit of qualification filed by any public officer, although approve secu-
 the same has been given or filed after the time limited by law, rity or affida-
 and in such case the office or commission of such public officer vits of qualifi-
 45 shall be deemed not to have been avoided by such default, but cation after
 to have remained and to remain in full force and effect. 16 V. the time limit-
 c. 87, s. 3. ed, &c.

Offices not to be vacated in such cases.

16. No act of any public officer whose security has been given, or registered or deposited, or whose affidavit of qualification has been filed after the time limited by law, shall by such default be void or voidable. 16 V. c. 87, s. 4.

Period limited for registering securities, &c., when executed at different times.

17. Where the securities of the principal and sureties have been executed at different times, (whether they were taken in one and the same bond, deed or other instrument, or in different ones,) the period limited for registering and depositing such securities shall be estimated from the time of the execution thereof, by the person who was the last to execute the bond or other instrument. 4, 5 V. c. 91, s. 8.

Irregularity not to make bond void.

18. No neglect, omission or irregularity in giving or renewing the bonds or other securities or in registering the same, within the periods or in the manner prescribed by this chapter, shall vacate or make void any such bond or security, or discharge any surety from the obligations thereof. 4, 5 V. c. 91, s. 9.

Registrar's duty.

19. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired; But no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited, from any forfeiture or penalty under any of the provisions of this chapter. 4, 5 V. c. 91, s. 10.

Not to waive forfeiture, &c.

Uniform practice established as to Sheriffs and Coroners in Lower Canada.

20. Every Sheriff or Coroner in Lower Canada shall, in like manner as aforesaid, give notice of the death, bankruptcy, insolvency or residence out of the Province, of any of his sureties, and shall be liable to all the penalties and forfeitures, provisions and regulations hereinbefore provided for the bonds or securities of other public Officers within this Province;—And every such Sheriff or Coroner shall observe the same formalities, in furnishing security and other matters as any other person hereinbefore mentioned :

Not to affect certain requirements of law.

Nothing in this section shall impair the effect of any provision of this Chapter, or of any other law requiring the transmission, deposit or recording of the duplicate copy of such bond or act of suretyship to or in the office of the Prothonotary or Clerk of any Court for the district for which such Sheriff or Coroner is appointed, or otherwise relating to such Sheriff. 4, 5 V. c. 91, s. 13, *adapted to existing laws.*

Duplicate bonds by Registrar of Deeds in Lower Canada.

21. Every Registrar or Deputy Registrar of Deeds in Lower Canada, shall deposit a duplicate copy of every bond by him entered into in pursuance of the law, in the manner, within the periods, with the formalities, and subject to the penalties

penalties in case of neglect, in furnishing such security and other matters, as any other person hereinbefore mentioned. 4, 5 V. c. 91, s. 14, adapted to existing laws.

22. The Registrar of the Province shall cause to be prepared for the information of the Provincial Legislature, within fifteen days after the opening of every session thereof, a detailed statement of all bonds or securities registered as aforesaid at his office, or of any changes or entries that have been made in reference to the names and residences of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the Provincial Legislature. 4, 5 V. c. 91, s. 15.

Statement of bonds, &c., to be laid before Legislature.

23. Nothing in this chapter shall extend to any Treasurer or other officer having the control or management of moneys levied and applied for municipal or local purposes. 4, 5 V. c. 91, s. 16.

Exception.

CAP. XIII.

An Act respecting Inquiries concerning Public Matters,
and Official Notices.

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

The Governor appointing Commissioners for inquiring into matters relative to the public business of the Province, may empower them to receive evidence on oath.

1. Whenever the Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of this Province, or the conduct of any part of the public business thereof, or the administration of justice therein, and such inquiry is regulated by any special law,—the Governor may by the commission in the case, confer upon the Commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing, (or on solemn affirmation if they be parties entitled to affirm in civil matters,) and to produce such documents and things, as such Commissioners shall deem requisite to the full investigation of the matters into which they are appointed to examine :

Wilful false statement to be perjury.

Proviso.

The Commissioners shall then have the same power to enforce the attendance of such witnesses and to compel them to give evidence, as is vested in any Court of Law in civil cases ; And any wilfully false statement made by any such witness on oath or solemn affirmation, shall be a misdemeanor punishable in the same manner as wilful and corrupt perjury : But no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution ; 9 V. c. 38, s. 1.

2. The foregoing provisions of this Chapter shall not be in force after the end of the Session commencing next after the first day of January, one thousand eight hundred and fifty-nine, unless further continued by Act of the Provincial Parliament.

Advertisements required by any Act or Law, shall be inserted in the *Canada Gazette* only unless another mode is directed.

3. All advertisements, notices or publications which, by any Act or Law in force in this Province or in any part thereof, are required to be given by the Provincial Government or any department thereof, or by any Sheriff or other officer, or by any Municipal authority, or by any officer, person or party whatsoever, shall be given in the *Canada Gazette*, unless some other mode of giving the same be directed by law :—and if in any Act in force in Upper or in Lower Canada any such notice is directed to be given in the *Quebec Gazette* by Authority or in the *Upper Canada Gazette* by Authority, the *Canada Gazette* shall be understood to be intended. 12 V. c. 26, s. 1.

TITLE.

TITLE 3.

PUBLIC DEPARTMENTS, REVENUE AND PROPERTY.

CAP. XIV.

An Act respecting the public Revenue, Debt and Accounts.

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

CONSOLIDATED REVENUE FUND.

1. All duties and revenues over which the respective Legislatures of Upper Canada or Lower Canada had, before the passing of the Act of the Imperial Parliament, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, or over which the Legislature of this Province has power of appropriation, shall form one Consolidated Revenue Fund to be appropriated for the public service of this Province in the manner and subject to the charges hereinafter mentioned. 9 V. c. 114, s. 1.

Duties and Revenues of U. C. and L. C. to form one Consolidated Revenue Fund.

2. The Consolidated Revenue Fund of this Province shall be permanently charged with all the costs, charges and expenses incident to the collection, management and receipt thereof; such costs, charges and expenses being subject nevertheless to be reviewed and audited in the manner directed by any Act of the Legislature. 9 V. c. 114, s. 2.

The Consolidated Revenue Fund to be permanently charged with the costs of collection, &c.

3. The consolidation of the duties and revenues of this Province shall not affect the payment out of the said Consolidated Revenue Fund of any sums heretofore charged upon the rates and duties raised, levied and collected before or after the coming into force of the Act last cited, to and for the use of either of the former Provinces of Upper or Lower Canada, or of this Province, for such time as has been appointed by the several Acts of the Legislature of the Province by which such charges were severally authorized. 9 V. c. 114, s. 7.

The consolidation of the duties and revenues not to affect the payment of certain charges.

APPROPRIATIONS MUST BE RECOMMENDED BY THE GOVERNOR.

4. The Legislative Assembly shall not originate or pass any Vote, Resolution or Bill for the appropriation of any part of the said Consolidated Revenue Fund, or of any other tax or impost, to any purpose which has not been first recommended by a Message of the Governor to the said Legislative Assembly during the Session in which such Vote, Resolution or Bill is passed. 9 V. c. 114, s. 8.

Legislative Assembly not to originate or pass any money bill, &c., unless first recommended by Message from the Governor.

GUARANTEED LOANS.

Money mentioned in the Act, (9 V. c. 64,) may be raised in such mode as Her Majesty shall appoint.

5. The Governor in Council may cause the Debentures mentioned in the Act to authorize the raising of the remainder of the loan guaranteed by the Imperial Parliament, (9 V. c. 64,) to be issued, or the sum to be raised under the said Act to be raised and borrowed, in such manner and form, in such place, (whether within or without this Province) and by such persons or officers as Her Majesty shall be pleased to appoint in that behalf. 10, 11 V. c. 2, s. 1—*effete?*

Recital—Act 6 V. c. 8, recited.

Governor in Council to set apart yearly a sum as a Sinking Fund to pay off the debt.

Order of charge of such sum upon the Consolidated Revenue Fund.

6. And whereas it is desirable to avoid all doubt as to the provision for paying off the debt contracted or to be contracted under the authority of the said Act or of the Act therein mentioned, passed in the sixth year of Her Majesty's Reign, Chaptered eight, and intituled, *An Act to authorize the raising by way of loan in England, the sum of one million five hundred thousand pounds sterling, for the construction and completion of certain Public Works in Canada*; Therefore, The Governor in Council shall set apart yearly, and in every year, until the whole amount of the said debt is paid off, such sum of money out of the Consolidated Revenue Fund of this Province as will be equal to four per centum on the total amount of the said debt, and may apply the same as a Sinking Fund for paying off the said debt, in such manner as the Governor in Council deems most advisable;—And such sum shall form the seventh charge on the said Consolidated Revenue Fund, and shall be next in order after the six charges made upon the same by the Imperial Act 3, 4 V. c. 35, intituled, *An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada*. 10, 11 V. c. 2, s. 2.

Act 9 V. c. 66, recited.

Certain provisions of this Chapter extended to money to be borrowed under the said Act with guarantee of the Imperial Government.

7. And whereas it may be deemed expedient by the Imperial Parliament to enable Her Majesty to guarantee the payment of the dividends and interest on the sum of two hundred thousand pounds sterling, yet remaining to be borrowed of the sum authorized to be raised by the Act (9 V. c. 66) intituled, *An Act for raising on the credit of the Consolidated Revenue Fund, a sum of money required for certain Public Works*, and such guarantee would be of advantage to the Province; Therefore, If any Act is passed by the Parliament of the United Kingdom of Great Britain and Ireland, enabling Her Majesty to guarantee the payment of the dividends and interest on the said sum of two hundred thousand pounds sterling, or any part thereof,—the Governor in Council may cause the sum to which such guarantee extends (not exceeding the amount aforesaid) to be raised and borrowed with such guarantee, by loan, debenture or otherwise, in such manner and form, in such place (whether within or without this Province), and by such persons or officers as Her Majesty shall be pleased to appoint,—and all the provisions of this and the next preceding section, and of the Provincial Acts hereinbefore mentioned, shall

shall extend to the sum borrowed with such guarantee, and to the payment of the dividends and interest thereon, and to the appropriation of a sum equal to four per centum thereon yearly, as a sinking fund for paying off the same, in like manner and as fully to all intents and purposes, as to the sums authorized to be raised by the Provincial Acts aforesaid. 10, 11 V. c. 2, s. 3.

REDEEMING OR RENEWING DEBENTURES,—SINKING FUND.

8. The Governor in Council may from time to time, and as the interests of the Public Service require, redeem or purchase on account of the Province, all or any of the then outstanding Debentures constituting the Public Debt of the Province of Canada, or of either of the late Provinces of Lower or Upper Canada, or all or any of the debentures issued by Commissioners or other public officers, under the authority of the Legislatures of either of the late Provinces of Upper or Lower Canada, or of the Legislature of Canada, the interest or principal of which debentures is made a charge on the Consolidated Revenue Fund of this Province, and may issue new Debentures to an amount not exceeding that of the Debentures so redeemed or purchased,—or the Governor in Council may arrange with the holders of any such Debentures as are hereinbefore described, to accept in lieu thereof new Debentures, which the Governor in Council may cause to be issued, and the principal or interest whereof shall be respectively payable out of the Consolidated Revenue Fund of this Province at such times as the Governor in Council may direct;—And all Debentures authorized by this Act may be made payable in sterling money of Great Britain or in the currency of this Province, and may be made payable, as may also the interest thereon, at such place, either within or without this Province, as the said Governor in Council may direct,—and the interest on such Debentures may be fixed at such rate, not exceeding the then legal rate, as the Governor in Council may direct. 12 V. c. 5, s. 1—*part*.

Governor in Council may cause Debentures to be redeemed and new Debentures for the same, or a less amount, to be issued, or may arrange for the exchange of outstanding Debentures for new ones.

Debentures may be payable in currency or sterling, &c.

Rate of interest.

9. Nothing in this chapter shall authorize the Governor in Council to increase the aggregate amount of the Public Debt of the Province without the authority of the Provincial Parliament: but this shall not be construed to prevent the issue of debentures, as aforesaid, for the purpose of applying the proceeds thereof to the purchase or redemption of other debentures. 12 V. c. 5, s. 1—*Remaining part*.

Total debt not to be increased.

10. Of the Debentures which the Governor in Council is or may be authorized to cause to be issued under this chapter or any Act passed or to be passed, a sum not exceeding two hundred and fifty thousand pounds, currency, may be issued in debentures, being each for a sum less than ten pounds, currency,—and such Debentures may be made payable on demand

Limitation of the amount debentures under Ten pounds each.

Form and terms of such debentures. or at any time after date, and with or without interest, and may be receivable in payment of moneys payable to the Provincial Government generally,—or in payment of such duties or dues, and by such Officers or Departments, and upon such terms and conditions, as the Governor in Council may from time to time appoint,—and being so received, may be re-issued or may be cancelled and others issued in their stead ;— But the total amount of such debentures as aforesaid outstanding at any one time, shall not exceed the said sum of two hundred and fifty thousand pounds, and the total amount of all debentures, including those mentioned in this section, shall not at any time exceed the amount then authorized by law. 12 V. c. 5, s. 2.

Terminable annuities may be granted. **11.** The Governor in Council may direct the proper Officers to grant Terminable Annuities chargeable on the Consolidated Revenue Fund of this Province, such annuities being granted on terms in accordance with the most approved English Tables, and based on a rate of interest not exceeding six per centum per annum, and to apply the proceeds of such grants to the extinction of the Public Debt. 12 V. c. 5, s. 4.

Except £20,000, all the yearly net revenue from Public Works shall go to the Sinking Fund. **12.** The entire Net Revenue derived from the Tolls on Public Works (after deducting therefrom the sum of twenty thousand pounds, which shall be annually placed at the credit of the Consolidated Revenue Fund and shall form part thereof), shall be carried to the credit of the Sinking Fund, and shall form part thereof ;—And the Governor in Council may direct the investment of all sums forming part of the Sinking Fund, either in the Public Securities of this Province, or in the British Funds ;— And the Governor in Council may, from time to time, direct the transfer from the Consolidated Revenue Fund to the Sinking Fund, of any unappropriated Revenue which it may at the close of each year be found practicable to apply towards the extinction of the Public Debt, and the sums so transferred shall be invested in the securities hereinbefore mentioned. 12 V. c. 5, s. 5—*omitting Proviso 2.*

Further sums to be applied, if practicable.

CREATION OF PROVINCIAL STOCK.

Governor in Council may create a Permanent Provincial Stock,— To bear interest at $4\frac{1}{2}$ per cent. **13.** The Governor in Council may create a Permanent Provincial Stock which shall be known as the Canadian Consolidated Stock, and shall be personal property, and shall bear interest at the rate of four and a half per cent. per annum, payable half yearly on the first day of January and the first day of July, and which, and the interest thereon, shall be chargeable upon and payable out of the Consolidated Revenue Fund of this Province :

Stock not to be paid off before 1st January, 1890. **2.** The said Stock shall not be paid off before the first day of January, in the year of Our Lord, one thousand eight hundred and ninety, but may be paid off on or after that day at the option

option of the Provincial Government, provided one year's previous notice to that effect has then been given in the *London Gazette* in England, under an Order of the Governor in Council, authorizing such notice ;

5 3. The said Stock shall be in sterling money of Great Britain, and shall be managed and the interest thereon paid in the City of London in England, by the Fiscal Agent or Agents of the Province, and shall be transferable there by such Agent or Agents, in such sums, in such manner and under such regulations as to the management and transfer thereof, as shall be from time to time made in that behalf by the Governor in Council. 22 V. c. 84, s. 1.

Stock to be in sterling money.

Fiscal agent may be employed, &c.

14. The Governor in Council may authorize the Inspector General from time to time to dispose of the said Stock and to apply the proceeds to the purchase or redemption of any outstanding debentures for the purchase or redemption of which New Debentures might be issued under this Chapter, or to arrange with the holders of such outstanding debentures to accept in lieu thereof such amount of the said Stock as may be agreed upon ;—And any sum then accrued for interest on such Stock shall be reckoned as part of the amount thereof, except in so far as it may be compensated by interest then due on such outstanding Debentures, any excess of interest on which then accrued shall be paid. 22 V. c. 84, s. 2.

Inspector General may dispose of said Stock, and apply proceeds, &c.

Interest.

REDEMPTION OF MUNICIPAL LOAN FUND DEBENTURES.

25 15. The Governor in Council may authorize the Inspector General, from time to time, to sell Stock created under the two next preceding sections of this Chapter, and with the proceeds thereof to purchase Municipal Loan Fund Debentures issued or to be issued under the authority of the *Act respecting the Consolidated Municipal Loan Fund*, such purchase to be made by tender under such conditions as may be determined by the Governor in Council, and of which due notice shall be given in the *Canada Gazette* : Provided that no such purchase shall in any way lessen or impair the obligation of any Municipality to pay the principal and interest of any Debt incurred under the said Act, and the contribution to the Sinking Fund constituted by the said Act, to the Receiver General at the times and in the manner therein prescribed, or shall impair or affect any remedy given by the said Act for enforcing such payment. 22 V. c. 84, s. 3.

Inspector General may sell Stock, and purchase Municipal Loan Fund Debentures.

Proviso.

PROVINCIAL AGENTS.

16. The Governor in Council may, from time to time, make such Regulations as he deems necessary for the management of the Public Debt of this Province, and the payment of the interest thereon, and may appoint one or more fiscal Agents of

Governor in Council to make regulations for the management of

of the Public Debt.

Agents may be appointed. Their remuneration.

of the Province in the City of London, and agree with them as to the rate of compensation to be allowed them for negotiating Loans, and for paying the interest on the Public Debt, and for other services connected with the management of the said debt, and may pay such compensation out of the Consolidated Revenue Fund. 12 V. c. 5, s. 6.

LOANS TO MEET DEFICIENCIES.

Provision for meeting any deficiency in the Consolidated Revenue Fund to meet the charges thereon in any year.

17. And whereas owing to the fluctuations of commerce, it may occasionally happen that the Revenue of this Province, consisting principally of Customs Duties, may fall short of the amount anticipated by the Legislature, and that in consequence thereof the Consolidated Revenue Fund may be insufficient to meet the charges placed thereon by law: Therefore, The Governor in Council may from time to time, as the exigencies of the public service require, in consequence of the Consolidated Revenue Fund being at the time insufficient to meet the charges placed thereon by law, direct the proper Officers to effect temporary Loans chargeable on the said Consolidated Revenue Fund, in such manner and form, in such amounts, and payable at such periods, and bearing such rates of interest, not exceeding the then legal rate per centum per annum, as the Governor in Council may direct;—but such Loans shall not exceed the amount of the deficiencies in the said Consolidated Revenue Fund to meet the charges placed thereon by law. 12 V. c. 5, s. 7.

PUBLIC ACCOUNTS.

Accounts to the Government to be rendered in dollars and cents.

Column of £. s. d. may be added.

18. The public accounts of this Province shall be kept in dollars and cents, and all accounts to be rendered to the Provincial Government, or to any public officer or department in this Province, by any officer or functionary, or by any party receiving aid from the Province, or otherwise accountable to the Government or Legislature thereof, shall be so rendered in dollars and cents; but any such accounts may have a second column containing sums in pounds, shillings and pence, equivalent to the sums so stated in dollars and cents, if the accountant prefers to render his account in that form. V. c. 18, s. 1.

Mode of keeping the Public Accounts.

19. The Public Accounts of the Province shall be kept by double entry in the offices of the Receiver General and of the Inspector General,—and an annual statement shall be prepared as soon as practicable after the termination of each fiscal year, exhibiting the state of the Public Debt and the amounts chargeable against each of the Public Works for which any part of the debt has been contracted,—also the state of the Consolidated Revenue Fund and of the various trusts and special funds under the management of the Provincial Government,—and such other accounts and matters as may be required to shew what the

the liabilities and assets of the Province really are at the date of such statement. 12 V. c. 5, s. 9.

20. And in order to simplify the Public Accounts, and to exhibit more clearly the true state of public affairs—an Account shall be opened in the books of the Province, intituled, "Losses by Public Works or otherwise," which shall be debited with such sums as have been expended on works which are wholly unproductive, and which are altogether abandoned,—and also with the balance due to the Province by the late Firm of Thomas Wilson and company, of London,—and also with such balances due by Public Accountants or incorporated companies as it is deemed impossible to collect, owing to the insolvency of the debtors or from other causes,—and also with any balance found at the debit of the old Sterling Debenture Account after computing the amount of such Debentures in currency, at the legal par of Exchange,—and also with the amount of all bonds given for Customs or Timber Duties, which, owing to the insolvency of the signers of such bonds, it is deemed impossible to collect,—and with the amount of all other sums advanced or expended by or due to the Province, which are deemed totally lost:—And a separate statement of all entries on the debtor side of the said Account, shall be annually submitted to Parliament with the Public Accounts. 12 V. c. 5, s. 10.

Account for losses to be opened, and with what sums the same shall be debited.

C A P . X V .

An Act respecting the Currency.

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

DENOMINATIONS OF MONEY.

Legal denominations of current money.

1. The denominations of money in the currency of this Province, shall be pounds, dollars, shillings, pence, cents and mills :—The pound, shilling and penny shall have, respectively, the same proportionate values as they had on the first day of August, 1854 ; the dollar shall be one-fourth of a pound, the cent shall be one-hundredth of a dollar, and the mill one-tenth of a cent ;—And in any statement as to money or money value in any agreement, indictment or legal proceeding, the same may be mentioned and described in pounds, shillings and pence, or in dollars, cents and mills, or in any or either of such denominations, as may be considered expedient. 16 V. c. 158, s. 2.

Accounts, &c., may be stated in any denominations.

2. All sums of money and accounts may be legally mentioned, described and stated, in any of the denominations of money above mentioned. 16 V. c. 158, s. 6.

CURRENT COINS.

1. *Gold.*

Pound currency defined.

Dollar currency.

Certain gold coins to be a legal tender.

3. The pound currency shall be held to be equivalent to and to represent one hundred and one grains, and three hundred and twenty-one thousandths of a grain Troy weight, of gold of the standard of fineness now prescribed by Law for the gold coins of the United Kingdom ;—And the dollar currency shall be held to be equivalent to and to represent one fourth part of the weight aforesaid of gold of the said standard ;—And any gold coins of the standard of fineness aforesaid which Her Majesty directs to be struck at the Royal Mint, shall, by declaring them lawful money of this Province, pass current and be a legal tender for sums to be mentioned in such proclamation and proportionate to their respective weights, subject to the like allowance for remedy as British gold coins. 16 V. c. 158, s. 3.

Pound sterling.

British gold coins.

4. The pound sterling shall be held to be equal to one pound, four shillings and four pence,—or four dollars, eighty-six cents and two-thirds of a cent, currency ; And any British sovereign of lawful weight, shall pass current and be a legal tender for that sum ; and the other gold coins of the United Kingdom shall, while of lawful weight, pass current and be a legal

legal tender for sums in currency equal, according to the proportion aforesaid, to their sterling value. 16 V. c. 158, s. 4.

5. Nothing in this Chapter shall affect the meaning to be affixed to the words "Sterling," "Sterling money of Great Britain," or other words of like import in any law in force in this Province, or in any part thereof, on the twenty-sixth day of April, 1842, or in any contract or agreement then made therein, but any such law, contract or agreement shall be construed according to the intention of the Legislature or of the parties who made the same;—But in any law, contract or agreement made in this Province after the said day, the pound sterling shall be understood to have the value in currency hereby assigned to the British Sovereign. 16 V. c. 158, s. 5.

Meaning of the word "sterling" in contracts, &c., made before 26th April, 1842.

2. Silver.

6. Such silver coins as Her Majesty may direct to be struck at the Royal Mint, of the fineness fixed by law for silver coins of the United Kingdom on the said first day of August, 1854, and of weights bearing respectively the same proportion to the value to be assigned to such coins in this Province, which the weights of the silver coins of the United Kingdom bore on the said day to the value assigned to them in the United Kingdom, shall, by such names as Her Majesty may assign to them in Her Royal Proclamation declaring them lawful money of this Province, pass current and be a legal tender at the rates assigned to them respectively in such proclamation. 16 V. c. 158, s. 7.

Silver coins struck by order of Her Majesty to be a legal tender.

7. Until it is otherwise ordered by Her Majesty's Royal Proclamation, the silver coins of the United Kingdom, while lawfully current therein, shall pass current in this Province for sums in currency, equal, according to the proportion hereinbefore fixed, to the sums in sterling for which they respectively pass current in the United Kingdom, but after the time to be fixed for that purpose in any such Proclamation as aforesaid, they shall cease to be current money in this Province;—And no other silver coins than those declared to be so in this Chapter shall be a legal tender or current money in this Province. 16 V. c. 158, s. 8.

Silver coins of United Kingdom.

No silver coins to pass except those made legal by this Act.

8. But the silver coins mentioned in either of the two preceding sections shall not be a legal tender to the amount of more than two pounds ten shillings currency in any one payment:—and the holder of the notes of any person or persons or body corporate, to the amount of more than two pounds ten shillings currency, shall not be bound to receive more than that amount in such silver coins in payment of such notes if they are presented for payment at one time, although each or any of such notes be for a less sum. 16 V. c. 158, s. 9.

Amount of silver in any one payment limited.

3. *Copper.*

Copper coins
of United
Kingdom.

9. The copper coins of the United Kingdom shall, while lawfully current therein, pass current and be a legal tender in this Province to the amount of one shilling currency, and no more, in any one payment, at the following rates, that is to say: the copper penny for two cents, the copper halfpenny for one cent, and any other subdivisions of the said copper penny for proportionate sums:

Her Majesty
may order
other copper
coins to be
struck.

Any copper coins of like weights with those aforesaid respectively, which Her Majesty may direct to be struck for the purpose, shall pass current and be a legal tender in this Province, at the like rates and to the like amount in any one payment: and if such copper coins are struck, Her Majesty may declare by Proclamation that the copper coins of the United Kingdom shall not be lawful money of this Province after a day to be appointed in such Proclamation. 16 V. c. 158, s. 10.

4. *Foreign Gold Coin.*

Rates at
which Ame-
rican gold
coins shall
pass.

10. The gold Eagle of the United States of America, coined before the first day of July, one thousand eight hundred and thirty-four, and weighing eleven penny weights, six grains, Troy weight, shall pass current and be a legal tender in this Province for ten dollars and sixty-six cents and two thirds of a cent, or two pounds thirteen shillings and four pence, currency,—and the Half Eagle of like date and proportionate weight, for one half the said sum:

Gold Eagle
coined be-
tween 1st July
1834, and 1st
January 1852.

And the gold Eagle of the said United States, coined after the day last mentioned, and before the first day of January, one thousand eight hundred and fifty-two, or after the said day but while the standard of fineness for gold coins then fixed by the laws of the said United States remains unchanged, and weighing ten pennyweights, eighteen grains, Troy weight, shall pass current and be a legal tender in this Province for ten dollars or two pounds ten shillings currency;—And the gold coins of the said United States, being multiples or halves of the said Eagle, and of like date and proportionate weight, shall pass current and be a legal tender in this Province for proportionate sums. 16 V. c. 158, s. 11.

Other foreign
gold coins may
be made cur-
rent by Pro-
clamation.

11. Her Majesty may at any time declare, by Proclamation, that any or all of any other gold coins of the said United States, or of any other Foreign Nation or State, shall, when of the weights to be assigned therein, pass current and be a legal tender in this Province, at rates in currency to be assigned to them respectively in such Proclamation, such rates being proportionate to the quantity of pure gold in such coins, reckoning ninety-two grains, and eight hundred and seventy-seven thousandths of a grain of pure gold as equivalent to one pound currency. 16 V. c. 158, s. 12.

C. A. P.

C A P . X V I .

An Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants.

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

PRELIMINARY—INTERPRETATION.

1. In this chapter, the words "Provincial Revenue" or "Revenue," mean and include and apply to all Provincial Revenue and branches thereof, and to all public moneys, whether arising from duties of Customs or other duties,—or from the Post Office,—or from the Crown Lands or Timber,—or from Tolls for the use of any public works,—or from penalties or forfeitures,—or from any rents or dues, or any other source whatsoever,—in so far as the collection, management and accounting for the same, are respectively subject to the control of the Provincial Legislature :

And any officer, functionary or person whose duty it is to receive any moneys forming part of the Revenue, or who is entrusted with the custody or expenditure of any such moneys,—although he may not be regularly employed in collecting, managing or accounting for the same,—shall be subject to the provisions of this chapter, so far as regards the accounting for and paying over such moneys, whatever be the office or employment by virtue of which he shall receive or be entrusted with the same. 8 V. c. 4, ss. 21, 22,—and 13, 14 V. c. 17.

COLLECTION AND MANAGEMENT OF THE REVENUE.

2. In so far as may be consistent with the Acts of the Parliament of the United Kingdom in force in this Province,—the Governor in Council may from time to time determine what officers or persons it is necessary to employ in collecting, managing or accounting for the Provincial Revenue, and in carrying into effect the laws thereunto relating, or for preventing any contravention of such laws, and may assign their names of office, and grant to such officers or persons as aforesaid such salaries or pay for their labour and responsibility in the execution of the duties of their respective offices and employments, as to the said Governor in Council seems reasonable and necessary, and may appoint the times and manner in which the same shall be paid :—But no such officer so appointed shall receive a higher annual salary than is allowed in this case by the Act respecting the Civil Service generally. 8 V. c. 4, s. 3, as amended by 20 V. c. 24.

Salaries to be in lieu of all other emoluments, and officers to give their whole time to the duties of their offices.

Exception.

Revenue officers excepted from certain charges.

Officers to take an oath of office.

The oath.

Certain powers with regard to the management of the customs vested in the Governor in Council.

3. The salary or pay allowed to any such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorized disbursements, shares of seizures, forfeitures and penalties: And no such officer or person, receiving a salary at or exceeding the rate of two hundred and fifty pounds per annum, shall exercise any other calling, profession, trade or employment whatsoever, with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except it be an office relating to the management and collection of the Revenue and the accounting for the same, and held by such officer or person with the permission of the Governor in Council. 8 V. c. 4, s. 4.

4. No officer or person regularly employed in the collection or management of the Revenue, or in accounting for the same, shall, while he remains such officer or so employed, be compelled to serve in any other public office or in any municipal or local office, or on any jury or inquest, or in the militia. 8 V. c. 4, s. 18.

5. Every person appointed to any office or employment relative to the collection or management of the Revenue, or in accounting for the same, shall, at his admission to such office or employment, take the following oath, before such officer as the Governor shall appoint to receive the same, that is to say:

"I, A. B, do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge, by my appointment as _____, and that I will not require, take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, either directly or indirectly, for any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my said office or employment, on any account whatever, other than my salary, or what shall be allowed me by law, or by order of the Governor of this Province in Council.—So help me God." 8 V. c. 4, s. 12.

6. The Governor in Council may, from time to time, make all such new divisions of the Province into districts or otherwise, as are required with regard to the collection or management of the Revenue,—and may assign the officers or persons to whom any duty or service relative to any such purpose shall be performed within or for any such district or division, and the place or places within the same, where such duty or service shall be performed,—and may make all such regulations concerning such officers and persons, and the conduct and management of the business to them intrusted, as are consistent with the law, and as he deems expedient for carrying it into effect, in the manner best adapted to promote the public good. And

And any general regulation or order made by the Governor in Council for any purpose whatever for which an order or regulation may be so made under the provisions of this chapter, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or parties concerned had been specially named therein :

General regulations, how to apply.

A printed copy of any regulation or order of the Governor in Council, printed by the Queen's Printer, or a written copy thereof attested by the signature of the Clerk of the Executive Council, shall be evidence of such regulation or order ; And any order in writing, signed by the Provincial Secretary, and purporting to be written by command of the Governor, shall be received in evidence as the order of the Governor. 8 V. c. 4, s. 5.

As to proof of regulations, orders, &c.

7. Every person employed on any duty or service relating to the collection or management of the Revenue, by the orders or with the concurrence of the Governor in Council (whether previously or subsequently expressed), shall be deemed to be the proper officer for that duty or service ; And every act, matter or thing required by any law in force to be done or performed by, to or with any particular officer nominated for that purpose in such law, being done or performed by, to, or with any person appointed or authorized by the Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with such particular officer :

Persons employed with the concurrence of the Governor in Council, to be deemed the proper officers.

And every act, matter or thing required by any law at any time in force, to be done or performed at any particular place within any port, or within any such district or division of this Province as aforesaid, being done or performed at any place within such port, district or division, appointed by the Governor in Council for such purpose, shall be deemed to be done or performed at the particular place so required by law. 8 V. c. 4, s. 6.

Same as to places.

8. Any Officer or person employed in the collection, management or accounting for any branch of the Revenue, may be employed in the collection, management or accounting for any other branch thereof, whenever it is deemed advantageous for the public service to employ him. 8 V. c. 4, s. 7.

Officers employed in one branch may be employed in another.

9. The Governor in Council may, from time to time, appoint the hours of general attendance of the officers and persons employed in the collection and management of the Revenue, at their proper offices and places of employment,—and may also appoint the times during such hours, or the seasons of the year, at which any particular parts of the duties of such officers

Hours of office and seasons for certain business, how appointed.

or

To be kept posted up in some conspicuous place. or other persons shall be performed by them respectively: And a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices and places of appointment. 8 V. c. 4, s. 8.

What days shall be kept as holidays. **10.** No day shall be kept as a public holiday by the officers and persons employed in the collection and management of the Revenue, except Christmas day, New Year's day and Good Friday in every year,--any days appointed by Proclamation of the Governor for the purpose of a general fast, or of a general thanksgiving,--such days as are appointed for the celebration of the birth-days of Her Majesty and Her Royal Successors,--and such other days as may be from time to time appointed as holidays by the Governor in Council. 8 V. c. 4, s. 9.

Governor in Council may direct accounts to be kept for statistical purposes. **11.** The Governor in Council may direct any officer or person employed in collecting, managing or accounting for any branch of the Provincial Revenue, to keep any books or accounts which he deems it advisable to direct to be kept for the purpose of obtaining any statistical information concerning the trade or commerce of the Province, the public works thereof, or other matters of public interest, and may authorize and allow any necessary expense incurred for such purpose. 8 V. c. 4, s. 11.

Public moneys to be paid to credit of the Receiver General through Banks, &c. Certificates to be taken. **12.** All public moneys, from whatever source of revenue derived, except the Post Office Department,--and all moneys forming part of special funds administered by the Provincial Government,--shall be paid to the credit of the Receiver General of the Province, through such Banks or parties as the Governor in Council may from time to time direct and appoint; And certificates of such deposit, in duplicate, shall be taken by the party making the same, and transmitted, one to the Receiver General, and the other to the department to which the payment relates. 18 V. c. 78, s. 9.

Governor in Council to appoint the mode and times in which moneys shall be accounted for and paid over. **13.** The Governor in Council may, from time to time, appoint the times and mode in which any officer or person employed in the collection, management or accounting for any part of the Revenue, shall account for and pay over the public moneys which come into his hands, to the officer appointed to receive the same,--and may determine the times, manner and form in which, and the officer by whom any Licenses on which any duty is payable, are to be issued:--Provided that such accounts and payments shall be rendered and made by such officers respectively at least once in every three months. 8 V. c. 4, s. 10.

Officer of Customs receiving money for the Crown to deposit same, in his name of **14.** Every Officer of the Customs or Excise in this Province receiving money for the Crown, shall deposit the same in his name of office, from time to time, in such Bank as the Governor in Council may appoint,--and no money so deposited shall be paid out again, except for the purpose of being placed to the credit

credit of the Receiver General, on the written order or check of office, in Bank
 the officer so depositing, or his successor, to whom the Bank appointed by
 shall grant a certificate in duplicate of its being so credited; the Governor.
 And every such Officer shall keep his Cash-book written up daily;
 5 and all the books, accounts and papers of such officer shall
 at all times during office hours be open to the inspection and
 examination of the Superintendent, or other officer or person
 whom the Inspector General may authorize to inspect or examine
 the same. 18 V. c. 78, s. 10.

10 15. The expenditure of moneys out of the Public Chest shall Expenditure
 always be made by check on some Bank, upon the warrant of of public mo-
 the Governor in Council, such check being signed by the neys to be by
 Receiver General and countersigned by the Inspector General, warrant of the
 or their respective deputies thereunto duly authorized. 18 V. Governor, &c.
 15 c. 78, s. 11.

BOARD OF AUDIT, AND ITS POWERS AND DUTIES.

16. The Governor may, by Letters Patent under the Great Seal Board of Au-
 of this Province, constitute and appoint, during pleasure, a dit may be
 Board of Audit, whose duty it shall be, under the direction and constituted,
 20 supervision of the Inspector General from time to time, to report and for what
 to the said Inspector General on any Accounts laid before the purposes.
 said Board, as hereinafter provided. 18 V. c. 78, s. 1.

17. The said Board shall consist of the Deputy Inspector Of whom to
 General, who shall be Chairman thereof, and the Commissioner consist.
 of Customs for the time being, and an Auditor to be appointed
 25 by the Governor. 18 V. c. 78, s. 2.

18. The said Auditor shall receive a salary of not more than Salary of
 five hundred pounds per annum, and shall be ineligible for a Auditor, &c.
 seat in either Branch of the Legislature. 18 V. c. 78, s. 3.

19. It shall be the duty of the Deputy Inspector General, or Duties of De-
 30 in his temporary absence through illness or otherwise, of such puty Inspec-
 person as the Governor in Council may appoint as one of the tor General
 Board of Audit—to examine and report upon every application with regard to
 for or issue of Money Warrants,—to countersign all Provincial public ac-
 Debentures, Receiver General's Cheques and Receipts,—to counts.

35 keep a Debenture Book, which shall contain a record and de- To keep a De-
 scription of all Debentures outstanding or to be issued, shewing benture book.

40 the date of issue, period of redemption, when cancelled, and To keep an
 payment of interest,—and an Interest Account,—to classify and appropriation
 keep posted up a Book to be called The Appropriation Book, book, and
 containing an account, under separate and distinct heads, of what it shall
 every appropriation of Public Money, whether permanent or show.

45 temporary, entering under each head the amounts drawn on
 account of such appropriation with the date and name of the
 parties to whom Warrants are issued, and when any such ap-
 propriation is exhausted to notify the same to the Governor and
 to

to the department having supervision over the service on account whereof such appropriation has been made,—to examine and audit the various accounts connected with the Administration of Justice in Upper and Lower Canada, the accounts current of the Officers of Customs and Excise,—and to keep the accounts of all Special Funds, as well as the Public Accounts of the Province. 18 V. c. 78, s. 4.

Duties of Commissioner of Customs. **20.** It shall be the duty of the Commissioner of Customs, as one of the Board of Audit,—to examine and check the Returns of the Officers of Customs and Excise. 18 V. c. 78, s. 5.

Duties of the Auditor. **21.** It shall be the duty of the Auditor—to examine, check, and audit the accounts and expenditure of the department of Public Works, and all contracts made by or with that Department,—and also those of the Crown Land Department, the Post Office Department, and of the Bureau of Agriculture and Statistics,—those of all Provincial Asylums, Hospitals, Penitentiaries and Prisons,—of the University of Toronto, Upper Canada College, and of the Superintendents of Education for Upper and Lower Canada,—also, all Accounts connected with the Adjutant General's Department and the organization and maintenance of the Provincial Militia and Police, Quarantine and Emigration,—to keep a register of Bank Notes issued and securities held under the provisions of the Free Banking Acts,—and to examine the returns and statements of all Savings Banks, chartered and other Banks of the Province,—to examine, check and audit the accounts of all Institutions or Establishments, whether educational, charitable, scientific, or otherwise, which derive their entire support from public moneys,—and generally to examine and audit accounts of all institutions, bodies, establishments or parties supported from Public Funds, and not hereinbefore specially mentioned. 18 V. c. 78, s. 6.

To keep register of Bank notes.

Examine returns of Savings' Banks, &c.

Further revision of accounts by Board of Audit. **22.** All accounts, after having been so audited in their several departments, shall be revised by the Board, or any two of the members thereof, and by them reported to the Inspector General for his final revision and approval. 18 V. c. 78, s. 7.

Examining and cancelling land scrip and debentures. **23.** It shall also be the duty of the said Board to examine and cancel Land Scrip and debentures redeemed,—the Board being assisted in examining and cancelling such Scrip by the Commissioner of Crown Lands, and in examining and cancelling such Debentures, by the Receiver General;—And the Board shall meet at least once in each month for the purposes mentioned in this section. 18 V. c. 78, s. 8.

Board of Audit may examine persons on oath. **24.** The said Board of Audit shall have full power and authority to examine any person on oath or affirmation on any matter pertinent to any account submitted to it for Audit, and such oath or affirmation may be administered to any person by any Member of the Board. 18 V. c. 78, s. 21.

25.

25. Any Member of the Board may on behalf thereof apply, in term or in vacation, to any Judge of the Superior Court for Lower Canada, or of either of the Superior Courts of Common Law in Upper Canada, for an order that a subpoena be issued from the said Court, commanding any person therein named to appear before the said Board at the time and place mentioned in such subpoena, and then and there to testify to all matters within his knowledge relative to any Account submitted to the said Board, and (if the Board so desire) to bring with him and produce to the Board any document, paper or thing which he may have in his possession relative to any such Account as aforesaid; and such subpoena shall issue accordingly upon the order of such Judge; And any such witness may be summoned from any part of this Province whether within or without the ordinary jurisdiction of the Court issuing the subpoena, in like manner as witnesses may be so summoned in civil suits. 18 V. c. 78, s. 22.

Board of audit may obtain subpoenas from the Superior Courts in either portion of the Province.

26. If by reason of the distance at which any person whose evidence is required by the said Board resides from the place where its sittings are held, or for any other cause, the Board deems it advisable, they may issue a Commission, under the hands and seals of any two Members of the Board, to any officer or person therein named, empowering him to take such evidence, and report the same to them; And such Officer or Person, being first sworn before some Justice of the Peace faithfully to execute the duty entrusted to him by such Commission, shall, with regard to such evidence, have the same powers as the Board or any Member thereof would have had if such evidence had been taken before the Board, and may, in like manner, apply to and obtain from any Judge of the Courts a subpoena for the purpose of compelling the attendance of any person, or the production of any document, paper or thing before him; And such subpoena shall issue accordingly on the order of such Judge, or such subpoena may issue on the application of any Member of the said Board, to compel such attendance, or the production of any document, paper or thing before such Commissioner. 18 V. c. 78, s. 23.

Board may appoint Commissioners to take evidence about accounts to be audited by it.

Subpoenas.

27. If any person summoned in the manner hereinbefore provided to attend before the said Board of Audit or any Commissioner appointed as aforesaid, fails without valid excuse, to attend accordingly,—or, being commanded to produce any document, paper or thing in his possession, fails to produce the same,—or refuses to be sworn or to answer any lawful and pertinent question put to him by the Board or by such Commissioner, such person shall, for each such offence, forfeit the sum of twenty pounds to the Crown, for the public uses of the Province, to be recovered in any manner in which debts due to the Crown can be recovered, and may likewise be dealt with by the Court out of which the subpoena issued, as having refused to obey the process of such Court, and as being guilty of a contempt thereof. 18 V. c. 78, s. 24.

Penalty on persons refusing to obey any such subpoena.

How recoverable.

CERTAIN INSTITUTIONS, &C., TO RENDER ACCOUNTS.

Institutions wholly supported by public grants to render accounts quarterly.

28. All Institutions and Establishments wholly supported by public grants, shall render quarterly (and oftener if required by the Inspector General) their accounts in detail for the purpose of being audited, accompanied by proper Vouchers for the expenditure of the moneys received by them out of the Public Chest ; And in all cases when such accounts are irregular, insufficient, or not rendered to his satisfaction, the Inspector General shall call upon the parties to supply the omission or correct the irregularity, and shall suspend any further advances to such Institution or Establishment until such accounts have been properly furnished. 18 V. c. 78, s. 12.

Reports of Superintendents of Common Schools. Other Institutions.

What such reports shall contain.

29. The Superintendents of Common Schools in Upper and Lower Canada, shall make their reports yearly on or before the thirtieth day of January in each year,—and all other institutions, associations, establishments and bodies deriving wholly or in part their support from public moneys, shall transmit to the Board of Audit on or before the fifteenth of January in every year, full and complete reports of their condition, management and progress, with such statistical returns as may from time to time be required by the Governor in Council ;—Such reports and returns shall contain the following particulars :

Educational Institutions.

Educational Institutions.

- 1st. The composition of the governing Body ;
- 2ndly. The number and names of the Professors, Teachers or Lecturers ;
- 3rdly. The number of persons taught, distinguishing those under sixteen years and those above sixteen ;
- 4thly. The general course of instruction and the books used ;
- 5thly. The annual cost of maintaining such institution and the sources from which the means are derived.

Literary or Scientific Institutions.

- 1st. The prominent objects of the Institution ;
- 2ndly. The number of volumes in their library, their subjects generally, and their value ;
- 3rdly. The nature and value of their apparatus ;
- 4thly. The number and subjects of lectures delivered within the year then last past ;

5thly.

- 5thly. The number of members on the books ;
- 6thly. The revenues of the Institution exclusive of Provincial aid.

Charitable Institutions and Asylums.

- 1st. The governing body ;
- 5 2ndly. The special objects of the Institution, its revenues exclusive of Provincial aid ;
- 3rdly. The number of persons admitted, relieved or discharged within the then last twelve months, and the number remaining under treatment or care. 18 V. c. 78, s. 13.

Charitable Institutions and Asylums.

Municipalities.

- 10 30. The Treasurer or Chamberlain of every Municipality for which any sum of money has been raised on the credit of the Consolidated Municipal Loan Fund, shall, so long as any part of such sum, or of the interest thereon, remains unpaid by such Municipality, transmit to the Board of Audit, on or before 15 the fifteenth day of January in every year, a return, certified on the oath of such Treasurer or Chamberlain before some Justice of the Peace, containing—the amount of taxable property in such Municipality according to the then last Assessment Roll or Rolls,—a true account of all the debts and liabilities 20 of such Municipality for every purpose, for the then last year,—and such further information and particulars with regard to the liabilities and resources of such Municipality, as the Governor in Council may from time to time require. 18 V. c. 78, s. 14.

Returns to be made yearly by Treasurers of Municipalities owing money secured on Consolidated Municipal Loan Fund.

LIABILITY OF PUBLIC ACCOUNTANTS AND REVENUE OFFICERS,—CIVILLY.

- 25 31. If any corporation, officer or person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the officer or department to whom he is hereby required to transmit the same, on or before the day hereby 20 pointed for the transmission thereof, such corporation, officer or person shall for such refusal or neglect forfeit and pay to the 30 Crown, for the public uses of this Province, the sum of twenty-five pounds, to be recovered, with costs, as a debt due to the Crown, and in any court and in any way in which debts to the Crown can be recovered ; And in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or 35 other evidence, that such account, statement or return ought to have been transmitted by the defendant, as alleged on the part of the Crown, and the onus of proving that the same was so transmitted shall rest upon the defendant. 18 V. c. 78, s. 15.

Penalty on parties not transmitting accounts as hereby required.

Proof in action for recovery of penalty.

Notification of persons neglecting to pay over money received for public purposes.

32. Whenever the Inspector General has reason to believe that any officer or person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands any public money applicable to any purpose, and has not paid over or duly applied and accounted for the same,—he may direct a notice to such officer, or person, or to his representative in case of his death, requiring him, within a time to be therein named, and not less than thirty nor more than sixty days from the service of such notification, to pay over, apply and account for such money to the Inspector General or to the Officer to be mentioned in the notification, and to transmit to him the proper vouchers that he has so done :

Notification to be served by the sheriffs.

Such notification shall be served by the Sheriff of the district or county where the service is made, or his deputy, by delivering a copy to the officer or person to whom it is addressed, or leaving it for him at his usual place of abode ; and the return of the Sheriff with an affidavit of such service, shall be conclusive evidence thereof. 18 V. c. 78, s. 16.

Proceedings against persons refusing to comply with such notification.

33. If any officer or person fails to pay over, apply or account for any such money, and to transmit such vouchers as aforesaid within the time limited by the notification served on him,—the Inspector General shall state an account as between such officer or person and the Crown in the matter to which the notification relates, charging interest from the service thereof, and shall deliver a copy thereof to the Attorney or Solicitor General, and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant as a debt due to the Crown, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence ;—and the Defendant shall be liable to the costs of such information or proceeding, whatever be the judgment therein, unless he proves that before the time limited in such notification, he paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper Vouchers with such account, or unless he issued the same in a representative character, and is not personally liable for such money, or to render such account. 18 V. c. 78, s. 17.

Liability of defendants as to costs.

Proceedings against persons transmitting accounts without vouchers.

34. Whenever any such officer or person as aforesaid has transmitted an account, either before or after notification as aforesaid, but without vouchers or with insufficient vouchers for any sum for which he therein takes credit,—the Inspector General may notify such officer or person, in the manner mentioned in the next preceding section but one, to transmit vouchers, or sufficient vouchers, within thirty days after the service of the notice ; And if such vouchers are not transmitted within that time, the Inspector General may state an account against such officer or person, disregarding the sums for which he has taken credit but for which he has transmitted no vouchers

vouchers or insufficient vouchers, and may deliver a copy of such account to the Attorney or Solicitor General, and such copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence;—but such defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless the vouchers by him transmitted within the time limited by the notice served on him, or before such service, are found of themselves sufficient for his defence, and for his discharge from all sums demanded of him :

Defendant to be liable to costs.

The said notice shall be served and the Sheriff's return of service shall be of the like effect as provided in the next preceding section but one with regard to the notice therein mentioned. 18 V. c. 78, s. 18.

Notice to be served, and Sheriff's return, &c.

25. If at any time it appears clearly, by the books or accounts kept by or in the office or by any officer or person employed in the collection or management of the Revenue or in accounting for the same, or by his written acknowledgment or confession,—that such officer or person hath by virtue of his office or employment received moneys belonging to Her Majesty, and amounting to a sum certain, which he hath refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed,—then upon affidavit of the facts, by any officer cognizant thereof, and thereunto authorized by the Governor in Council, made before a Justice or Judge of any Court having jurisdiction in civil matters to the amount of the sum so ascertained as aforesaid,—such Justice or Judge shall cause to be issued against and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such Court, if the bond given by him had been put in suit, and judgment had been thereupon obtained in favour of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; And such writ or writs shall be executed by the Sheriff or other proper officer, and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if such judgment as aforesaid had been actually obtained. 8 V. c. 4, s. 17.

Moneys belonging to Her Majesty, and clearly appearing not to be paid over.

Writes in execution may issue, &c.

26. If any Officer or person has received public money for the purpose of applying it to any specific purpose, and has not so applied it within the time or in the manner provided by law,—or if any person having held any public office and having ceased to hold the same, has in his hands any public money received by him as such officer for the purpose of being applied to any specific purpose to which he has not so applied it,—such officer or person shall be deemed to have received such money for

Unapplied public money to be payable back to the Receiver General on demand of the Inspector General.

Recovery, if not so paid.

for the Crown for the public uses of the Province, and may be notified by the Inspector General to pay such sum back to the Receiver General, and the same may be recovered from him as a debt to the Crown, in any manner in which debts to the Crown may be recovered,—and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied. 18 V. c. 78, s. 20.

Persons employed to collect public money to be responsible for losses from their malfeasance or gross neglect, &c.

37. If by reason of any malfeasance, or of any gross carelessness or neglect of duty, by any officer or person employed in the collection or management of the Revenue, or in collecting or receiving any moneys belonging to the Crown, for the public uses of the Province, any sum of money is lost to the Crown,—such Officer or person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it. 18 V. c. 78, s. 19.

Not to impair any remedy given to the Crown by any other law.

38. Nothing in this chapter shall weaken or impair any remedy which the Crown has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of the Province, and in the possession of any officer or person whomsoever, by virtue of any other Act or Law. 18 V. c. 78, s. 25.

Criminal Liability.

No officer to take any fee, &c., on pain of dismissal.

39. If any officer or any person acting in any office or employment connected with the collection and management of the Revenue or the accounting for the same, takes or receives directly or indirectly, any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, from any person (not being an officer or person legally authorized to pay or allow the same,) on account of any thing done by him in any way relating to his office or employment, except such as he receives by order or with the permission of the Governor in Council,—every such officer or person so offending shall, on proof to the satisfaction of the Governor, be dismissed from his office or employment ;—And if any person (not being an officer duly authorized to pay or allow the same,) gives, offers or promises any such fee, perquisite, gratuity or reward,—such person shall, for every such offence, incur a penalty of one hundred pounds currency, which penalty shall be recoverable in any Court having jurisdiction in civil cases to a like amount. 8 V. c. 4, s. 13.

Penalty on persons offering fees, &c.

All books, &c., used in the collection and the management of the revenue, to be

40. All books, papers, accounts and documents of what kind soever, and by whom and at whose cost soever the papers and materials thereof have been procured or furnished,—kept by or used, or received or taken into the possession of any officer or person employed or having been employed in the collection or

or management of the Revenue or in accounting for the same, the property by virtue of his employment as such,—shall be deemed to be of Her Majesty's chattels belonging to Her Majesty,—and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to Her Majesty :

If any such officer or person at any time fraudulently embezzles any such chattel, money or valuable security,— (and any refusal or failure to pay over or deliver up any such chattel, money or valuable security to any officer or person who, being duly authorized by the Governor in Council, demands the same, shall be a fraudulent embezzlement thereof),—he shall be deemed to have feloniously stolen the same and may be indicted and proceeded against, and being convicted thereof shall be liable to be punished, in the same manner as any servant who having fraudulently embezzled any chattel, money or valuable security, received or taken into his possession by virtue of his employment, for or on the account of his master and being in law deemed to have feloniously stolen the same, may be indicted, proceeded against and punished ;

Officer embezzling money, &c., may be proceeded against as having feloniously stolen the same.

Nothing herein contained shall prevent, lessen or impeach any remedy which Her Majesty or any other party has against such offender or his sureties, or against any other party whomsoever ;—but nevertheless the conviction of any such offender shall not be received in evidence in any suit, or action at law or in equity, against him. 8 V. c. 4, s. 16.

Other remedies not impaired.

MISCELLANEOUS PROVISIONS.

30 In all cases wherein proof on oath or by affirmation or declaration is required by any law relating to the collection or management of the Revenue or to the accounting for the same, or is necessary for the satisfaction or consideration of the Governor in Council, in any matter relating to the collection or management of the Revenue or to the accounting for the same, and no person or officer is specially named as the officer or person before whom the same is to be made,—it may be made before any Collector or Chief officer of the Customs for the port or place where such proof is required, or before such other officer or person as may be appointed to receive the same by the Governor, and such officers and persons shall administer such oath or affirmation or receive such declaration ; And in any case or class of cases, where an oath is required by this chapter or by any law in force, in any matter relating to the collection or management of the Revenue or the accounting for the same, the Governor in Council, if he deems it fit, may authorize the substitution for such oath, of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as such oath would have done. 8 V. c. 4, s. 14.

When an oath is necessary, it may be taken before the collector or Chief Officer of Customs, &c.

Affirmation may be substituted for oath.

Testimony to be given on oath on inquiries touching revenue matters.

42. Upon all examinations and inquiries made by order of the Governor in Council, for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the Revenue, or the accounting for the same, or the conduct of officers or persons employed therein,—and upon like examinations and inquiries made by the Collector of the Customs, or by the chief officer employed in the collection and management of the Revenue, in or at any port, district or place, or by any person or officer authorized by the Governor in Council to make such examinations and inquiries,—any person to be examined as a witness shall deliver his testimony on oath to be administered to him by the officer or person making the examination or inquiry, who shall administer the same :

False statement to be wilful and corrupt perjury.

And any person wilfully making any false statement, in any such examination upon oath or in any solemn affirmation or declaration substituted as aforesaid for an oath, whether such oath be required by this chapter or by any other law relating to the Revenue, shall be deemed guilty of wilful and corrupt perjury, or of a misdemeanor punishable in the same manner as wilful and corrupt perjury, and shall on conviction be liable to be punished accordingly. 8 V. c. 4, s. 15.

REMITTING DUTIES, FORFEITURES, &C.

Governor may remit duties, tolls, or forfeitures.

43. And whereas it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue in cases where, without such relaxation, great public inconvenience or great hardship and injustice to individuals could not be avoided ;—Therefore, the Governor, whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed or authorized to be imposed by any Act of the Provincial Legislature, or any forfeiture or pecuniary penalty imposed or authorized to be imposed by any such Act, for any contravention of the laws relating to the collection of the Revenue or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other party ;—And such remission may be made by any general regulation or by any special order in any particular case, and may be total or partial, unconditional or conditional,—and if conditional, and the condition be not performed, the order made in the case shall be null and void, and all proceedings may be had and taken as if it had not been made :

Remission may be made by general regulation or special order.

Detailed statement of remissions to be annually submitted to the Legislature.

But a detailed statement of all such remissions as aforesaid, shall be annually submitted to the several branches of the Legislature within the first fifteen days of each ensuing session thereof. 8 V. c. 4, s. 19.

44. If the Governor directs that the whole or any part of any penalty imposed by any Law relating to the Revenue be remitted or returned to the offender, such remission or return shall have the effect of a pardon for the offence for which the penalty is incurred, which shall thereafter have no legal effect prejudicial to the party to whom such remission is granted :

If penalty be remitted, the remission to have the effect of a pardon.

Her Majesty's Attorney General, or other law officer, may sue for and recover in Her Majesty's name any penalty or forfeiture imposed by any Law relating to the Revenue, before any Court or other judicial authority before which such penalty or forfeiture is recoverable under such Law, or may direct the discontinuance of any suit for any such penalty, by whom or in whose name soever the same has been brought,--and in such case, the whole of such penalty or forfeiture shall belong to Her Majesty for the public uses of the Province, unless the Governor in Council do, as he may if he sees fit, allow any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture has been recovered.

Attorney General may sue for and recover any penalty, &c.

Application of forfeiture in such case.

8 V. c. 4, s. 20.

45. All commissions and appointments of any officers or persons employed in the collection or management of the Revenue or in accounting for the same, issued or made before the sixth day of April, 1845, shall continue in force, and the nature of the duties and local extent of the powers of each office, shall, unless and until they be expressly altered, remain the same as if granted or made under the authority of this chapter, subject always to the provisions and enactments thereof ; And all bonds which have been given by such officers or persons, or their sureties, shall remain in full force and effect. 8 V. c. 4, s. 2.

Appointments of officers to continue.

Bonds to remain in force.

C A P. X V I I .

An Act respecting Duties of Customs and the Collection thereof.

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

PRELIMINARY—INTERPRETATION.

1. In order to avoid the frequent use of numerous terms and expressions in this chapter and in other laws relating to the Customs or to trade or to navigation, and to prevent misconstruction of the terms and expressions used therein—It is declared that—

Interpreta-
tion clause.

In this Chapter, or in any such law as aforesaid, the word "Collector" means the Collector of the Customs at the port or place intended in the sentence, or any person lawfully deputed or appointed to do the duty of Collector thereat ;—the word "Vessel" means any ship, vessel, or boat of any kind whatever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context be manifestly such as to distinguish one kind or class of vessel from another ;—the word "Master" means the person having or taking charge of any ship or vessel ;—the word "Owner" means the owners if there be more than one in any case ;—the word "Goods" means goods, wares and merchandize, or moveable effects of any kind, including carriages, horses, cattle and other animals, except where these latter are manifestly not intended to be included by the said word ;—the word "Warehouse" means any place, whether house, shed, yard, dock, pond, or other place in which goods imported may be lodged, kept and secured without payment of duty ;—and the words "Customs Warehouse" means any such place appointed or approved for the said purpose by competent authority.—And generally, all the terms and provisions of this chapter or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best ensure the protection of the Revenue and the attainment of the purpose for which such law was made, according to its true intent, meaning and spirit. 10, 11 V. c. 31, s. 79.

DUTIES AND EXEMPTIONS FROM DUTY.

Duties of Customs.

2. In lieu and instead of all other Duties of Customs upon Goods imported into this Province, there shall be raised, levied, collected and paid unto Her Majesty, Her Heirs and Successors, upon Goods imported into this Province or taken out of warehouse for consumption therein, the several Duties of Customs respectively inserted or mentioned in the Table in the Schedule

Schedule to this Chapter annexed, intituled, *Table of Duties of Customs inwards*;—And the articles enumerated in the Table in the said Schedule intituled, *Table of Free Goods*, may be imported or taken out of warehouse, without payment of any duty of Customs under this Chapter; And the articles enumerated in the Table in the said Schedule intituled, *Table of Prohibitions*, shall not be imported into this Province under the penalty therein mentioned, and if imported shall be forfeited, and forthwith destroyed: 22 V. c. 76, s. 2.

Free goods.

Prohibitions.

2. But nothing in this Chapter shall affect any duty payable under the *Act respecting Copyrights*, on British Copyright Works; 22 V. c. 76, s. 2.

British copy-right works.

3. The Governor in Council may from time to time declare that any article whatever, when of the growth, produce or manufacture of the British North American Provinces or Possessions of Nova Scotia, New Brunswick, Prince Edward's Island and Newfoundland, or of any one or more of them, is or is not admissible into this Province free from duty, and under what circumstances, conditions and regulations: Provided always, that nothing herein contained shall have the effect of rendering any such article liable to duty in any case where without this enactment it would be free from duty; 13, 14 V. c. 3, s. 1.

Articles, the growth of other B. N. A. Provinces.

4. And if the Governor in Council at any time declares that any such article whatever, is not, or is not under certain circumstances, admissible into this Province, free of duty, then the duty on such article, when it is not admissible free, shall be that imposed on the like article by this Chapter or by any other Act then in force, but if no duty be so imposed, then it shall be admitted free; 22 V. c. 76, s. 4—part.

Duty on articles declared not to be free.

5. The importation of goods exempt from duty under this Chapter and all matters relating thereto, shall be subject to such regulations as the Governor in Council shall make for the purpose of preventing fraud or abuse under pretext of such exemption, nor shall such exemption prevent the forfeiture of such goods for any breach of the Customs Laws, or of any regulations lawfully made under them. 22 V. c. 76, s. 3.

Governor in Council to make regulations for preventing fraud, &c.

6. On each and every non-enumerated article which bears a similitude either in material, quality or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned;—And if any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same

As to non-enumerated articles bearing a similitude to enumerated ones, &c.

as

Articles made of more than one material. Packages. as that on the enumerated article which it resembles, paying the highest duty ;—And on all articles manufactured from two or more materials, the duty shall be that charged on the article (if there be a difference of duty) which is charged with the highest duty :—And the packages in which goods are contained shall be deemed goods within the meaning of this Chapter, and shall be subject to duty accordingly. 12 V. c. 1, s. 4, as amended by 16 V. c. 85, s. 3.

As to duty on packages. 4. The duty on the packages in which any goods are contained, shall be an *ad valorem* duty on the value of such packages at the same rate *per centum* as the *ad valorem* duty on the goods contained in them, unless such goods are free of duty or chargeable with a less duty than would be payable on the packages if imported empty as merchandize, in which case they may be charged with duty as merchandize apart from the goods they contain :—But by any departmental order or orders, to be from time to time made and approved by the Governor, certain packages containing goods of small value, to be mentioned in such order, may be wholly exempted from duty. 16 V. c. 85, s. 3.

Governor in Council may declare the duty in doubtful cases, or that the goods are free from duty. 5. And inasmuch as doubts may arise as to whether any or what duty is payable on particular goods, more especially when such goods are of a new or unusual kind, or compounded of various kinds of materials, or imported in an unusual manner or under unusual circumstances : Therefore, for removing such doubts and avoiding litigation—If in any case any doubt arises as to whether any or what duty is under the laws then in force, payable on any kind of goods, and there is no decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the Governor in Council may declare the duty payable on the kind of goods in question or goods imported in the manner or under the circumstances in question, or that such goods are exempt from duty ; and any order in Council containing such declaration and fixing such duty (if any) and published in the *Official Gazette*, shall, until otherwise ordered by the Legislature, have the same force and effect as if such duty had been fixed and declared by law ; and a copy of the said *Gazette* containing a copy of any such order shall be evidence thereof. 16 V. c. 85, s. 6.

Currency. Weights and measures. 6. All sums of money hereby granted or imposed either as duties, penalties or forfeitures, shall be Provincial Currency ;—And all duties shall be paid and received according to the British Weights and Measures in use on the sixth day of July, one thousand eight hundred and twenty-five ;—And in all cases wherein the duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value. 10, 11 V. c. 31, s. 4.

7. The duties hereby imposed shall be held to be duties within the meaning of the *Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts and the liability of Public Accountants*, and shall, with all matters and things thereunto relating, be subject to the provisions of the said Chapter, and to the regulations and orders of the Governor in Council, made or to be made under the authority thereof, in so far as the same are not inconsistent with this Chapter;— And all moneys arising from such duties or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province. 10, 11 V. c. 31, s. 5.

Consolidated Act, Cap. 16, to apply to duties under this chapter.

ENTRY OF GOODS INWARDS—PLACE OF ENTRY.

8. No goods shall be unladen from any vessel arriving from any place out of this Province, until due entry has been made of such goods, and warrant granted for the unloading of the same;—and no goods shall be so unladen, (unless for the purpose of lightening the ship or vessel in crossing over a shoal, or bar, or sand-bank,) except at some place at which an officer of the Customs is appointed to attend the unloading of goods, or at some place for which a sufferance has been granted by the Collector or other proper officer, for unloading of such goods; And all goods unladen contrary to the regulations of this Chapter, shall be forfeited. 10, 11 V. c. 31, s. 8.

Goods not to be unladen except after due entry.

Exception.

And the places appointed for the purpose.

Forfeiture for contravention.

9. The Governor in Council may by regulation, from time to time, appoint the ports and places of entry for the purposes of this Chapter, and may in like manner increase or diminish the number or alter the position or limits thereof. 10, 11 V. c. 31, s. 9—part.

Governor in Council to appoint places of entry, and alter the same.

10. No goods shall be imported into this Province, whether by sea, land, coastwise, or by inland navigation, and whether any duty is or is not payable on such goods, except into some port or place of entry at which a Custom House is then lawfully established :

At what places only goods may be imported.

And if any goods are imported into this Province at any other place, or being brought into such port or place of entry by land or inland navigation, are carried past such Custom House, or removed from the place appointed for the examination of such goods by the Collector or other officer of the Customs at such port or place, before the same have been examined by the proper officer, and all duties thereon paid and a permit given accordingly, such goods shall be forfeited, together with the vessel in which the same were imported,—if such vessel is of less value than two hundred pounds,—and if the vessel is worth more than that sum, it may be seized, and the master or person in charge thereof shall incur a penalty of two hundred pounds, and the vessel may be detained until such penalty be paid or security given

Forfeitures of goods carried past the Custom House on importation by land or removed, &c.

Vessel forfeited in certain cases.

Vessel may be detained.

given for the payment thereof,—and unless payment be made or satisfactory security be given, within thirty days, such vessel may, at the expiration thereof, be sold for the said penalty ;

And carriages, in cases of importation by land.

And if any goods are so imported by land, they shall be forfeited, together with the carriage and all the harness and tackle thereof, in or by which such goods are so imported or removed, and the horses or other cattle employed in drawing such carriage, or in importing or removing such goods. 10, 11 V. c. 31, s. 9—*part.*

ENTRY INWARDS—REPORT.

Report to be made by the master of a Vessel arriving from sea, or coastwise.

11. The master of every vessel arriving from sea or coastwise in any port in this Province, whether laden or in ballast, shall come directly, and before bulk is broken, to the Custom House for the port or place of entry where he arrives, and there make a report in writing to the Collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country, and tonnage, and if British, the port of registry, the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such vessel, and whether she is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and where and to whom consigned, and where any, and what goods, if any, have been unladen during the voyage, as far as any of such particulars can be known to him :

Contents of such report.

Penalty for contravention.

2. And the Master shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as shall be demanded of him by such officer ; and if any goods are unladen from any vessel before such report be made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, he shall forfeit the sum of one hundred pounds ;

Goods, not reported, to be forfeited.

As to the necessary lightening of vessels.

3. And any goods not reported, shall be forfeited, unless it appears that there was no fraudulent intention, in which case the Master shall be allowed to amend his report ;—but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass shoal, or otherwise, for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk, under this section ; 10, 11 V. c. 31, s. 10—*part.*

Governor in Council may make regulations for the appointment of Sufferance

4. But in order to avoid injurious delay to steamers and other vessels under certain circumstances, the Governor in Council may make such regulations as may be considered advisable, for the appointment of Sufferance Wharves and Warehouses, at which goods arriving by vessels in transit to

to other ports or confined to certain days of departure, wharves and
 may be landed and afterwards stored before entry, such vessels warehouses.
 being duly reported to the Custom House, and having obtained
 the Collector's Warrant for the purpose :—provided such landing
 5 be effected between sun-rise and sun-set, on a day not being
 Sunday or a Statutory Holiday, and provided the goods on
 being so landed, are immediately stored in some such ap-
 proved Sufferance Warehouse ;—and such goods shall be there-
 10 after dealt with by the Customs as prescribed by law ; But
 nothing in this Section shall affect any contract express or
 implied between the master or owner of any such vessel and
 the owner, shipper or consignee of any such goods as aforesaid,
 or the rights or liability of any party under such contract. 22
 V. c. 76, s. 6.

15 **12.** The Governor in Council may, by regulation, declare Governor in
 any trade or voyage on the rivers, lakes or waters, within or Council may
 adjacent to this Province, whether to or from any place within declare what
 or without this Province, to be a coasting trade or a coasting shall be a
 20 voyage within the meaning of this Chapter, whether such rivers, coasting
 lakes or waters, are or are not, geographically or for the pur- voyage.
 poses of other Acts or laws, inland waters ;—And all carrying What shall be
 by water which is not a carrying by sea, or coastwise, deemed in-
 shall be deemed to be a carrying by inland navigation ;—And land naviga-
 the Governor in Council may also from time to time, with tion.
 25 regard to any such coasting trade, dispense with such of the Governor in
 requirements of the next preceding section as he deems it inex- Council may
 pedient to enforce. 10, 11 V. c. 31, s. 10--*remainder.* relieve coast-
 ers.

30 **13.** The master or person in charge of any vessel or car- Report to be
 riage arriving by land or inland navigation, in any port or place of made on im-
 entry in this Province, from any place beyond the limits of this portation by
 Province, and having any goods therein, (whether any duty be land or inland
 payable on such goods or not) or if the carriage or its tackle or navigation.
 the horses or cattle drawing the same or any of them is or are
 35 liable to duty, and any person whomsoever so arriving and
 having with him or in his charge or custody any goods,—shall
 come directly, and before any such goods are unladen or put out
 of his custody, to the Custom House for such port or place of
 entry, and make a report in writing (in such form as may be
 40 appointed for that purpose by competent authority) to the Collec-
 tor or other proper officer, of the arrival of such vessel, carriage,
 or goods, stating in such report the marks and numbers of every Contents of
 package and parcel of goods in such vessel or carriage, or in such report.
 the charge and custody of such person, from what place the
 same are respectively brought, and to what place and to whom
 45 consigned or belonging, as far as such particulars are known
 to him, and he shall then and there produce such goods to the
 Collector or other proper officer, and shall declare that no goods
 have been unladen from such vessel or carriage or have been
 50 put out of his possession, between the time of his coming
 within the limits of this Province and of his making such report
 and

and declaration, and shall further answer all such questions concerning such vessel, carriage or goods, as are demanded of him by such Collector or officer :

Forfeiture of goods unladen, &c., without being so reported—penalty for untrue report.

And if any goods are unladen from such vessel or carriage, or put out of the custody of such master or person, before such report is made, or if such master or person fails to make such report or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each or any such offence forfeit the sum of one hundred pounds, and if any such goods are not so reported and produced, or if the marks and numbers of any package do not agree with the report made, such goods or package shall be forfeited. 10, 11 V. c. 31, s. 11.

ENTRY—GENERAL FORM OF.

Within what time entries shall be made by sea, or from any place out of the Province.

By inland navigation, or by land, in decked vessels.

In undecked vessels.

14. Every importer of any goods by sea or from any place without this Province shall, within five days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same ;--And every importer of any goods imported by inland navigation in a decked vessel of one hundred tons burthen or more shall, within two days of the arrival of the importing vessel, make due entry inwards of such goods, and land the same ;--And every importer of any goods imported by inland navigation in any undecked vessel or in any vessel of less than one hundred tons burthen, or by land, shall, within twenty-four hours after the importation of such goods, produce the same to the proper officer and make due entry thereof :

Bills of entry inwards or outwards.

Duplicates.

Particulars required.

The person entering any goods whether inwards or outwards, shall deliver to the Collector or other proper officer, a Bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written or partly printed, and in duplicate, containing the name of the importer or exporter, and if imported or exported by water, the name of the vessel and of the master, and of the place to or from which bound, and of the place within the port where the goods are to be unladen or laden, and the description of the goods, and the marks and numbers and contents of the packages, and the place from or to which the goods are imported or exported or carried, and stating whether such place is within or without the limits of this Province ;

Duties to be paid down, unless the goods are warehoused.

Warrant for unloading. Permit, if required.

Unless the goods are to be warehoused in the manner by this Chapter provided, such person shall at the same time pay down all duties due upon all goods entered inwards ; and the Collector or other proper officer shall, immediately thereupon, grant his warrant for the unloading or lading of such goods, and grant a permit for the conveyance of the same further into the Province, if so required by the importer ;

In default of such entry and landing, or production of the goods, or payment of duty, the Officer of Customs may convey the goods to the Customs Warehouse ;--and if such goods be not duly entered and the duties due thereon paid within three months from the date of such warehousing, together with all charges of removal and warehouse rent, the same shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied first to the payment of duties and charges, and the overplus, if any after discharging the vessel's lien, shall be paid to the owner of the goods or to his lawful agent ;

For want of entry, goods may be taken to the warehouse, and sold, if duties be not paid within a certain time.

But if any goods are brought in any decked vessel, from any place out of this Province to any port of entry therein, and not landed, but it is intended to convey such goods to some other port in this Province in the same vessel, there to be landed, then the duty shall not be paid nor the entry completed at the first port, but at the port where the goods are to be landed and which they shall be conveyed accordingly, under such regulations and with such security or precautions for compliance with the requirements of this Chapter, as the Governor in Council may from time to time appoint. 10, 11 V. c. 31, s. 12.

Proviso: as to goods not intended to be landed at the first port the vessel makes.

Where the entry shall be completed.

15. The Collector or proper officer of Customs may require from the importer (or from his agent) of any goods charged with duty, or conditionally exempted from duty, or exempt therefrom, before admitting the said goods to entry, such further proof as he deems necessary, by oath or declaration, production of invoice or invoices, or bills of lading or otherwise, that such goods are properly described and rated for duty or come properly within the meaning of such exemptions. 10, 11 V. c. 31, s. 16.

Collector may require further proof that goods are properly entered, &c.

16. Any package of which the importer or his agent declares the contents to be unknown to him, may be opened and examined by the Collector or other proper Officer in the presence of such importer or agent, and at the expense of the importer, who shall also bear the expense of re-packing. 10, 11 V. c. 31, s. 17.

Packages, of which the contents are unknown, may be opened.

17. No entry nor any warrant for the landing of any goods or for the taking of any goods out of any warehouse (as herein after provided,) shall be deemed valid, unless the particulars of the goods and packages in such entry or warrant correspond with the particulars of the goods and packages purporting to be the same in the report of the vessel, or other report, (where any is required,) by which the importation or entry thereof is authorized,—nor unless the goods have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported ;—And any goods taken or delivered out of any vessel, or out of any warehouse, or conveyed into the Province beyond the

No entry unless the goods correspond with the report.

Goods, not corresponding

with the entry to be forfeited. the port or place of entry, by virtue of any entry or warrant not corresponding with the facts in all such respects, or not properly describing the goods, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited ;--And the Collector or proper officer, after the entry of any goods, may, on suspicion of fraud, open and examine any package of such goods, in presence of two or more credible witnesses, and if upon examination the same are found to agree with the entries, they shall be repacked by such Collector or proper officer, at the public cost, but otherwise they shall be forfeited. 10, 11 V. c. 31, s. 18.

Suspected packages may be opened.

Conditions.

Value to be given in entry, although the goods be duty free. 18. The value of any goods shall always be stated in the Bill of Entry thereof, although such goods are not subject to duty, and the Invoice thereof shall be produced to the Collector, but need not be left with him or be attested on oath. 13 V. c. 1, s. 20.

ENTRY INWARDS—GOODS DAMAGED—FREE GOODS—TARE.

Abatement on goods imported by water and damaged.

How ascertained.

Remuneration to be allowed to the merchants ascertaining such abatement.

Return of duties on goods lost before landing:—on what conditions to be obtained.

19. If any goods imported by water on which duties are payable, receive any damage by water or otherwise during the course of the voyage, after such goods have been laden or shipped, and before the same are unshipped or discharged from the vessel in which they are imported into this Province, or from any vessel or craft into which the said goods have been transported for the purpose of being conveyed to the port of destination, so that the owner thereof is prejudiced in the sale of such goods,—the Collector or proper officer of the Customs at the place where the same are landed, may choose three disinterested merchants, experienced in the value of such goods, who, or any two of them, upon viewing the same, shall certify what damage such goods have received, or how much the same are lessened in their true value by such damage, in relation to the duties imposed on them, and thereupon such officer shall make or repay a proportionate allowance to the importer, by way of abatement of the duties due or payable, or which have been actually paid upon the same; And the said merchants shall be allowed in remuneration for such valuation, at the discretion of such officer, a sum of not less than ten shillings nor more than fifty shillings for each merchant, and such remuneration shall be paid by the owner or owners of such goods. 10, 11 V. c. 31, s. 19.

20. When any vessel is entered at the Custom House at any port in this Province, on board of which there are any goods, on which any duty has been levied or collected, or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel, then, on proof being made on the oath of one or more credible witnesses

witness or witnesses, before and to the satisfaction of the Collector or proper officer of the Customs at the place, (who shall administer the oath,) that such goods, or any part thereof (specifying the same) have been so lost or destroyed, before the landing of the same,--the duties on the whole, or the part thereof so proved to be lost or destroyed, shall, if the same have been paid or deposited, be returned to the owner or his agent. 10, 11 V. c. 31, s. 20.

21. All goods exempt from duty as being imported for the use of Her Majesty's Troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and be charged with the duties payable on like goods on their importation for other purposes ; And if such duties be not paid, such goods shall be forfeited and may be seized and dealt with accordingly. 10, 11, V. c. 31, s. 21.

Crown goods and others, exempted from duty, to be liable to duty if sold ;
Forfeiture if duties be not paid.

22. In all cases where duties are charged according to the weight, tale, guage or measure, such allowances shall be made for tare and draft upon the packages as may be appointed by regulation made by the Governor in Council :

Allowance for tare, &c., to be fixed by Governor in Council.

But when the original invoice of any goods is produced, and a declaration of the correctness thereof made as hereinafter provided, the tare according to such invoice shall be deducted from the gross weight of the goods instead of the allowances aforesaid ; subject, however, to such further regulation as the Governor in Council may from time to time make. 10, 11 V. c. 31, s. 22.

Where real tare is known.

ENTRY INWARDS—VALUATION FOR DUTY.

23. And inasmuch as it is expedient to make such provisions for the valuation of goods subject to *ad valorem* duties as may protect the revenue and the fair trader against fraud by the undervaluation of any such goods—Therefore, the Governor may from time to time, and when he deems it expedient, appoint fit and proper persons to be Appraisers of goods, and to act as such respectively, at such Ports of entry and places as may be designated by the Governor ;--And each such Appraiser shall, before acting as such, take and subscribe the following oath of office before some Justice of the Peace having jurisdiction where the oath is taken, and shall deliver the same to the Collector at the Port or place, or at one of the Ports or places where he is appointed to act :

Recital.
Appraisers to be appointed.
They shall take an oath of office.

" I, A. B., having been appointed an Appraiser of goods, The oath.
" ~~wares~~ and merchandize, and to act as such at the Port of
" *(or, as the case may be)*, do solemnly swear
" *(or affirm)* that I will faithfully perform the duties of the said
" office, without partiality, fear, favor or affection, and that I
" will

“ will appraise the value of all goods, submitted to my ap-
 “ praisement, according to the true intent and meaning of the
 “ laws imposing duties of Customs in this Province ; and that
 “ I will use my best endeavours to prevent all fraud, subter-
 “ fuge or evasion of the said laws, and more especially to
 “ detect, expose and frustrate all attempts to undervalue any
 “ goods, wares or merchandize on which any duty is charg-
 “ eable. So help me God.”

A. B. Appraiser for
 (as the case may be). 10

“ Sworn before me, this day of
 18 ”

E. F.
 J. P. for (as the case may be). 15

Appraisers may be sent to any port to appraise goods.
 If no Appraiser is appointed at any Port of entry, the Col-
 lector there shall act as Appraiser, but without taking any
 special oath of office as such ; And the Governor may at any
 time direct any Appraiser to attend at any port or place for the
 purpose of valuing any goods, or of acting as Appraiser there
 during any time, which such Appraiser shall accordingly do
 without taking any new oath of office ; and every Appraiser
 shall be deemed an Officer of the Customs. 12 V. c. 1, s. 5.

As to mode of calculating value for ad valorem duties.
 24. In all cases where any duty is imposed on any goods
 imported into this Province *ad valorem*, or according to the
 value of such goods, such value shall be understood to be the
 fair market value thereof in the principal markets of the country
 whence the same were exported directly to this Province : And
 every Appraiser and every Collector when acting as such,
 shall, by all reasonable ways and means in his power, ascertain
 the fair market value as aforesaid of any goods to be appraised
 by him, and estimate and appraise the value for duty of such
 goods, at the fair market value as aforesaid :

Provisions as to goods merely passing through a Country.
 Nevertheless, by any departmental order authorized by the
 Governor, it may be provided that in the cases and on
 the conditions to be mentioned in such order, and while the
 same is in force, goods *bona fide* exported to this Province from
 any Country, but passing *in transitu* through another Country,
 shall be valued for duty as if they were imported directly from
 such first mentioned Country. 16 V. c. 85, s. 3—part.

Entries inwards by Bill of Sight—how and in what cases made.
 25. If the importer of any goods whereon a duty *ad va-*
lorem is imposed, or the person authorized to make the decla-
 ration required with regard to such goods, makes and subscribes
 a declaration before the Collector or other proper officer, that
 he cannot, for want of full information, make perfect entry
 thereof,

thereof, and takes the oath or affirmation in such cases provided in the Schedule to this Chapter, and gives bond jointly and severally with one or more sureties to the satisfaction of the Collector or proper officer aforesaid, to produce a sufficient invoice of such goods attested in the manner required by this Chapter within a time to be appointed by the Collector,—then the Collector or officer may cause such goods to be landed on a Bill of Sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person, and at his expense, in the presence of the Collector or principal officer, or of such other officer of the Customs as shall be appointed by the said Collector or other proper officer, and to be delivered to such person on his depositing in the hands of the Collector or officer, a sum of money fully sufficient in the judgment of the Collector or officer to pay the duties thereon ;—And if the importer does not complete a perfect entry within the time so appointed, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly ;

Deposit of money for duty.

Provision if perfect entry be not made as stipulated.

Such Sight Entry may be made as aforesaid and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that such invoice has not been, and cannot be produced, and pays to the Collector or proper officer aforesaid a sum of money sufficient in the judgment of such Collector or officer to pay the duties on such goods, and such sum shall then be held to be the amount of the said duties ; 10, 11 V. c. 31, s. 13, as amended by 12 V. c. 1, s. 7.

If the Importer swears that no service has been or can be received.

But, except only in cases where it is otherwise provided herein or by regulation of the Governor in Council, no entry shall be deemed perfect unless a sufficient invoice of the goods to be entered, attested as hereinafter required, has been produced to the Collector. 12 V. c. 1, s. 7—*remaining part*

In other cases Entry not perfect without Invoice.

26. With the Bill of Entry of any goods, there shall be produced and delivered to and left with the Collector, if required by him, an Invoice of the goods, attested by the oath of the owner, and if the owner be not the person entering such goods, then verified also by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such Entry and verify such Invoice, in the form or to the effect of the oath or oaths provided for the case in the Schedule B hereunto annexed, which oath or oaths shall be written or printed, or partly written and partly printed on such Invoice, or on the Bill of Entry, (as the case may be), or shall be annexed thereto, and shall in either case distinctly refer to such Invoice so that there can be no doubt as to its being the Invoice to which such oath is intended to apply, and shall be subscribed by the party making it and certified by the signature of the person before whom it is made ;—And the Bill of Entry shall also contain a statement of the value for duty of the

Invoice to be attested on oath by the owner of the goods.

Form of oath.

Bill of entry to mention

the value for duty, and to be attested.

the goods therein mentioned, and shall be signed by the person making the entry, and shall be verified in the form or to the effect of the oath provided for the case in the said Schedule B. 12, V. c. 1; s. 8.

As to any case where there may be more than one owner of goods.

27. If there be more than one owner, importer or consignee of any goods, any one of them cognizant of the facts may take the oath required by this chapter, and such oath shall be sufficient, unless the goods have not been obtained by purchase in the ordinary way, and some owner resident out of this Province is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof, in which case the oath of such non-resident owner (or of one of them, if there be more than one) cognizant of the facts, shall be requisite to the due attestation of the invoice. 12 V. c. 1, s. 11.

Invoice to be attested by one of the owners of such goods—and also by the importer or consignee.

28. The Invoice of any goods produced and delivered to the Collector with the Bill of Entry thereof, under the next preceding section but one, must in every case, if required by the Collector, be attested by the oath of the owner or one of the owners of such goods, and must be verified also by the oath of the Importer or Consignee or other person who may under this Chapter lawfully make entry of such goods and verify such Invoice, if the owner or one of the owners is not the person entering such goods,—and must be attested by the oath of the non-resident owner being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners be the person entering the goods and verifying the Invoice on oath. 16 V. c. 85, s. 5.

And also by the oath of the non-resident owner, &c.

Provision for the death, &c., of the owner, importer or consignee.

29. If the owner, importer or consignee of any goods be dead, or a bankrupt or insolvent, or if for any cause his personal estate be administered by another person, then his executor, curator, administrator or assignee, or person administering as aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer or consignee might otherwise have taken or made. 12 V. c. 1, s. 10.

Party entering may add to the value by the invoice so as to give the true value for duty.

Evidence of the value of goods, &c.

30. In any such Bill of Entry as aforesaid, the person making the same, may add such sum to the value stated in the Invoice, as will be sufficient to make the value for duty such as it ought to be, and such value shall then, for the purposes of this chapter, stand instead of the value as it would appear by the Invoice:—And no evidence of the value of any goods imported into this Province, or taken out of warehouse for consumption therein, at the place whence and the time when they are to be deemed to have been exported to this Province, contradictory to or at variance with the value stated in the Invoice produced to the Collector, with the additions (if any) made to such value by the Bill of Entry, shall be received in any Court in this Province, on the part of any party except the Crown. 12 V. c. 1, s. 9.

31. The oath required under the foregoing sections may be made in this Province before the Collector at the Port where the goods are entered, or if the person making such oath is not resident there, then before the Collector of some other Port ;--
 5 And when such oath is required to be made out of the limits of this Province, it may be made at any place within the Dominions of Her Majesty before the Collector or before the Mayor or other Chief Municipal Officer of the place where the goods are shipped, and at any place out of the Dominions of Her Majesty,
 10 before the British Consul at such place, or if there is no such Consul, then before some one of the principal merchants at such place, not interested in the goods in question ;

Before whom the attestation of invoice or bills of entry may be made.

2. And the Governor in Council may, from time to time, by Regulation, appoint or designate such other and additional
 15 persons, officers or functionaries as he sees fit, by name or by their name of office, and in this Province or out of it, and within or beyond Her Majesty's Dominions, as those before whom such oath may be validly taken, and may by
 20 any Order in Council relax or dispense with the provisions of this Chapter touching such oath, in or with regard to goods imported by land or inland navigation, or to any other class of cases to be designated in such Regulation ; 12 V. c. 1, s. 12.

Governor in Council may appoint other persons before whom attestation may be made.

3. No person other than the owner, consignee or importer of the goods of which entry is to be made, shall be allowed to
 25 take any oath under the said foregoing sections, unless there be attached to the Bill of Entry therein referred to, a declaration by the owner, consignee or importer of the said goods, (or his legal representative under section *twenty-nine* of this Chapter,) to the same effect as the oath or affirmation, (adapting the
 30 form and words to the case,) distinctly referring to the Invoice presented with such Bill of Entry, and signed by such owner, importer or consignee, (or his legal representative,) either in presence of the agent making the entry, who shall attest the
 35 signature, or of some Justice of the Peace or Notary Public, who shall attest the same ; And such declaration shall be kept by the Collector, who may detach the same from the Invoice, if the latter be annexed thereto and be not left with him ; And
 40 for any wilfully false statement in such declaration, the person making the same shall incur the same penalty as if it were made in the oath or affirmation :--But such written declaration may be dispensed with under the order of the Governor in Council, where it may be deemed advisable in the interests of Com-
 merce, to dispense therewith ;

No person but the owner, &c., to take oath, except in certain cases.

Proviso.

4. The Governor in Council may, by Regulation, authorize
 45 the alteration of any of the forms of oaths or affirmations in the said Schedule B, by abbreviating the same or omitting any of the allegations therein contained which may appear to him unnecessary ;--And any amended form prescribed by any such Regulation, shall be of the same effect as the form in the said
 Schedule

Governor in Council may alter oaths in Schedule B.

Schedule for which it is substituted, and shall thereafter be held to be the form referred to in this Chapter ; And any such Regulation may from time to time be repealed or amended as other Regulations in matters relating to the Customs. 22 V. c. 76, s. 5.

Power of appraiser or collector to examine the parties on oath, &c.

32. Any Appraiser, or any Collector acting as such, (or the merchants to be selected as hereinafter mentioned, to examine and appraise any goods, if the importer, owner, consignee or agent is dissatisfied with the first appraisement) may call before him or them and examine upon oath any owner, importer, consignee or other person, touching any matter or thing which such Appraiser or Collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices or other papers in his possession relating to the same :

Penalty for refusing to attend, &c. £12 10s.

And if any person so called neglects or refuses to attend, or declines to answer, or refuses to answer in writing (if required) to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers as aforesaid when required so to do, he shall thereby incur a penalty of twelve pounds ten shillings, and if such person is the owner, importer or consignee of the goods in question, the appraisement which the Appraiser or Collector acting as such shall make thereof, shall be final and conclusive ;

Penalty for wilfully false evidence.

Depositions to be filed in the office of the Collector.

And if any person wilfully swears falsely in any such examination, and he is the owner, importer or consignee of the goods in question, they shall be forfeited ; and all depositions or testimony in writing taken under this section, shall be filed in the office of the Collector at the place where the same are made or taken, there to remain for future use or reference, subject nevertheless to the order of the Inspector General. 12 V. c. 1, s. 14.

If importer is dissatisfied with appraisement, may appeal in certain cases.

Two merchants to be appointed to appraise the goods.

Their appraisement to be final.

33. If the importer, owner, consignee or agent, having complied with the requirements of this Chapter, is dissatisfied with the appraisement made as aforesaid of any such goods, he may forthwith give notice in writing to the Collector of such dissatisfaction, on the receipt of which notice the Collector shall select two discreet and experienced merchants, subjects of Her Majesty, and familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions, and if they disagree, the Collector shall decide between them ; and the appraisement thus made shall be final and conclusive, and the duty shall be levied accordingly :

Remuneration of such merchants, and by whom paid.

The said merchants shall each be entitled to the sum of twenty-five shillings, to be paid by the party dissatisfied with the former appraisement if the value ascertained by the second

second appraisement is equal to or greater than that ascertained by such former appraisement, or if the value ascertained by such second appraisement exceeds by ten per cent or more the value of the goods for duty, as it would appear by the Invoice and Bill of entry thereof,—otherwise the same shall be paid by the Collector out of any public moneys in his hands and charged in his accounts ;

Any merchant chosen to make an appraisement required under this Chapter, and who after due notice of such choice has been given to him in writing, declines or neglects to make such appraisement, shall, for so refusing or neglecting, incur a penalty of ten pounds and costs ;

Penalty for refusing to act.

If in any case the actual value for duty of any goods appraised as aforesaid, exceeds by twenty per centum or more the value for duty as it would appear by the Invoice and Bill of Entry thereof, then in addition to the duty otherwise payable on such goods, when properly valued, there shall be levied and collected upon the same a further duty equal to one half the duty so otherwise payable :—And the value of any goods for duty shall never be appraised at less than the value for duty as it would appear by the Invoice and Bill of Entry. 12 V. c. 1, s. 15, as amended by 16 V. c. 85, s. 3.

Additional duty in cases of under-valuation.

Appraised value not to be less than Invoice value.

ENTRY INWARDS—POWERS OF COLLECTOR FOR ENSURING FAIR VALUATION.

24. The Collector may always, when the value of the goods is in dispute, and when he deems it advisable in order to protect the revenue and the fair trader from fraud by undervaluation, and where the same is practicable, and subject always to such Regulations as may be made by the Governor in Council,—take the amount of the duty chargeable on any article on which an *ad valorem* duty is payable (after deducting one eleventh of the duty) in the article itself, taking any specific duty at the rate at which the article is valued for duty by the owner, importer, agent or consignee, that is to say :—if the duty after such deduction is ten per cent *ad valorem*, he may take one tenth of such goods, and if there be any specific duty thereon, he may also take such quantity of the said goods as at the value last aforesaid will be equivalent to the amount of such specific duty after deducting one eleventh as aforesaid ;—And out of any number of packages or quantities in the same Invoice or Bill of Entry, the Collector may take his choice at the rates therein assigned to such articles respectively :—And such goods so taken shall be sold or dealt with in such manner as may be provided by regulation of the Governor in Council. 12 V. c. 1, s. 16.

Collector may take the duty in kind.

Mode of taking the same, &c.

May take his choice of package.

Goods to be sold, &c.

25. The Collector may always, when he deems it expedient for the protection of the Revenue, and of the fair Trader,

Collector may take goods on

paying the value assigned in the bill of entry, adding ten per cent and charges.

How such goods may be dealt with.

Bonus to collector, appraiser, &c., for diligence.

Collector to cause a certain number of packages in every entry to be opened, &c.

Forfeiture of goods not mentioned in invoice, or fraudulently under-valued, &c.

Or for false statement in any oath, &c.

Onus of proof, on whom to lie.

Trader, and subject always to any regulations to be made by the Governor in Council in that behalf,—detain and cause to be properly secured, and may at any time within fifteen days declare his option to take, and may take for the Crown, any whole package or packages, or separate and distinct parcel or parcels, or the whole of the goods mentioned in any Bill of Entry, and may pay, when thereunto requested, to the owner or person entering the same, and out of any public moneys in the hands of such Collector, the sum at which such goods, packages or parcels, are respectively valued for duty in the Bill of Entry, and ten per cent thereon, and also the fair freight and charges thereon to the Port of Entry, and may take a receipt for such sum and addition when paid ;—And the goods so taken, shall (whether such payment be requested or not) belong to the Crown from the time they are so taken as aforesaid, and shall be sold or otherwise dealt with in such manner as shall be provided by any regulation in that behalf, or as the Governor of this Province shall direct, and the net proceeds of the sale of any such goods, shall be dealt with as moneys arising from duties of Customs :

And if the net proceeds of any such sale, exceed the amount paid as aforesaid for the goods, then any part of the surplus, not exceeding fifty per centum of such surplus, may, under any Regulation or Order of the Governor in Council, be paid to the Collector, Appraiser or the other officer concerned in the taking thereof, as a reward for his diligence. 12 V. c. 1, s. 17.

36. The Collector shall cause at least one package in every Invoice, and at least one package in ten if there be more than ten in any Invoice, and so many more as he or any Appraiser deems it expedient to examine for the protection of the revenue, to be sent to the warehouse and there to be opened, examined and appraised, the packages to be so opened being designated by the Collector on the Invoice ;—And if any package is found to contain any goods not mentioned in the Invoice, or if any goods are found which do not correspond with the description thereof in the Invoice, and such omission or non-correspondence appears to have been made for the purpose of avoiding the payment of the duty or of any part of the duty on such goods,—or if in any Invoice or Entry any goods have been undervalued with such intent as aforesaid,—or if the oath of affirmation made with regard to any such Invoice or Entry is wilfully false in any particular, then in any of the cases aforesaid all the packages and goods included or pretended to be included, or which ought to have been included in such Invoice or Entry, shall be forfeited. 12 V. c. 1, s. 18--part.

ENTRY INWARDS—GENERAL PROVISIONS.

37. The burden of proof that all the requirements of this chapter, with regard to the Entry of any goods, have been complied with

with and fulfilled, shall in all cases lie upon the parties whose duty it was to comply with and fulfil the same. 12 V. c. 1, s. 18—*remaining part.*

38. And whereas it is expedient that certain goods when imported into this Province should be marked or branded, with such mark or brand as may be deemed necessary, in order to denote the payment of the duty to which such goods are liable: Therefore, the Governor in Council may, by regulation, direct that after any goods have been entered at the Custom House, and before the same are discharged by the officers and delivered into the custody of the importer or his agent, such goods shall be marked or stamped in such manner or form as may be directed by such regulations for the security of the Revenue, and by such officer as may be directed or appointed for that purpose. 10, 11 V. c. 31, s. 34.

Duty paid goods may be branded or marked under regulations to be made by the Governor in Council.

39. When any person has occasion to remove from any port of entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid,—the Collector or principal officer of the Customs at such port, on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained, with their marks and numbers,—shall give a permit or certificate in writing, signed by him, bearing date on the day it is made, and containing the like particulars and certifying that such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid, and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed. 10, 11 V. c. 31, s. 34.

Permit certifying that duties have been paid on any goods to be granted at the request of the owner.

Particulars in such permit.

WAREHOUSING GOODS.

40. The following Ports shall be Warehousing Ports for the purposes of this chapter, viz:—Amherstburgh, Belleville, Brockville, Chippewa, Cobourg, Colborne, Cornwall, Dalhousie, Dover, Goderich, Hamilton, Hope, Kingston, Maitland (on Grand River), Montreal, Niagara, Prescott, Quebec, Stanley, St. John and Toronto, as shall also such other Ports of Entry as the Governor in Council from time to time appoints to be warehousing ports. 10, 11, V. c. 31, s. 23.

What shall be Warehousing Ports.

41. The importer of any goods into this Province may enter the same for exportation, on giving security by his own bond with one sufficient surety, for the exportation of the same goods, or may warehouse the same on giving such security by his own bond for the payment of the amount of all duties on such goods, and the performance of all the requirements of this chapter with regard to the same, the penalty of such bond being

Goods may be entered for exportation or warehoused without payment of duties subject to regulations of Governor in Council.

being double the amount of the duty to which such goods are subject (without payment of any duties in either case on the first entry thereof,)—at such ports or places as aforesaid, and in such warehouses, and subject to such rules and regulations as may be from time to time appointed by the Governor in Council in that behalf, not being repugnant to this chapter :

Importer may sort or repack goods, for their preservation or disposal, and may take samples ;

And may remove the same under bonds ;

And may pass the same on to any other Warehousing Port, under bonds, &c.

During the regular warehouse hours, and subject to such regulations as the Collector or proper officer of Customs at the warehousing ports sees fit to adopt, (as well for the carrying and taking of such goods to the warehouse as for other purposes,) such importer may sort, repack or make such lawful arrangements respecting the same, in order to the preservation or legal disposal thereof, and may take therefrom moderate samples without present payment of duty or entry, and may remove the same under the authority of the said officer, from such warehousing port to any other warehousing port in this Province, under good and sufficient bonds to the satisfaction of such officer,—or upon entry at any frontier port or Custom House, under the authority and with the sanction of the Collector or chief officer of Customs at such port or Custom House, and under bonds to his satisfaction, and subject to such regulations as may be made in that behalf by the Governor in Council, the importer may pass the goods on to any warehousing port in any other part of this Province ;

Goods to be finally cleared within two years.

In default, collector may sell.

All such goods shall be finally cleared, either for exportation or home consumption, within two years from the date of the first entry and warehousing thereof; and in default thereof, the Collector or proper officer may sell such goods for the payment, first of the duties, and secondly of the warehouse rent and other charges, and the surplus, if any, shall be paid to the owner or his lawful agent,—and the Collector or proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the Governor in Council in that behalf ;

Importer may abandon packages, and not to be liable for duty.

Bonds for duties in warehouse may be dispensed with in certain cases.

Goods taken out for exportation and re-landed, &c., to be forfeited.

But the importer may abandon any whole packages for duties, without being liable to pay any duty on the same. 10.

11 V. c. 31, s. 24, as amended by 22 V. c. 76, s. 7.

The Governor in Council may, by Regulations to be from time to time made in that behalf, dispense with or provide for the cancelling of Bonds for the payment of duties on goods actually deposited in Warehouse under the Crown's Lock, on such terms and conditions and in such cases as he thinks proper. 12 V. c. 1, s. 22.

42. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse,—or having been afterwards taken out of the warehouse without due entry and clearance,—or having been entered and cleared for exportation from

from the warehouse, are not duly carried and shipped, or otherwise conveyed out of this Province, or are afterwards relanded, sold, used or brought into this Province, without the permission of the proper officer of the Customs,—such goods shall be forfeited. 10, 11 V. c. 31, s 25.

43. All goods taken out of warehouse shall be subject to the duties to which they would be liable if then imported into this Province, and not to any other. 10, 11 V. c. 31, s. 26—*remaining part.* Goods, taken out of warehouse, subject to duties.

10 44. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcass, may cure and pack the same) in bond : and the importer of any wheat, maize or other grain, may grind and pack the same in bond,—provided such slaughtering, curing, grinding and packing be done and conducted under such regulations and restrictions as the Governor in Council may from time to time make for this purpose ; and the said regulations may extend to the substitution of beef and pork, flour and meal in quantities equivalent to the produce of such cattle and swine, 15 wheat, maize or other grain. 10, 11 V. c. 31, s. 27. Cattle and swine may be slaughtered, &c., and grain ground, in bond, under regulations to be made by the Governor in Council. To extend to the substitution of beef and pork, &c.

45. The importer or owner of any sugar, molasses or other material from which refined sugar can be produced, may refine the same in bond,—provided such refining be done and conducted under such regulations and restrictions as the Governor in Council may from time to time make and impose for that purpose ; and the same regulations may extend to the substitution of refined sugar in quantities equivalent to the produce of the sugar or other material so refined in bond. 18 V. c. 5, s. 8. Sugar may be refined in bond.

46. The property of any one or more whole package or packages, of any goods so warehoused shall be transferable from party to party on a *bond fide* bill of sale, on which there shall be a written agreement signed by the parties,—or on a written contract of sale made, executed and delivered by a broker or other person legally authorized for or in behalf of the parties respectively, and provided the amount of the price stipulated in the said agreement or contract has been actually paid or secured to be paid by the purchaser : Property in bond, how to be transferable.

47. And any such sale shall be valid, although the goods remain in the warehouse, provided that a transfer of such goods, according to the sale, is entered in a book to be kept for that purpose by the Collector or other proper officer of the Customs, who shall keep such book and enter such transfers, with the dates thereof, upon application of the owners of the goods, and shall produce such book upon demand made ; Transfers to be entered by the Collector in a book to be open to the Public.

48. And upon such sale, the proper officer may admit fresh security to be given by the bond of the new proprietor of the goods or person New proprietor may give bond, &c.

Bond of original bonder may be cancelled. Proprietor to be deemed the Importer.

person having the control over the same, (with his sufficient surety, in cases where the former bond was given with surety,) and may cancel the bond given by the original bonder of such goods, or may exonerate him (and his surety if any he had,) to the extent of the fresh security so given: And the party being the proprietor of any such goods for the time being shall then be deemed to be the importer thereof for the purposes of this chapter. 10, 11 V. c. 31, s. 28.

Allowance for leakage, &c., how made.

47. The Governor in Council may, by regulation, authorize such allowance to be made for leakage, natural and unavoidable waste or deficiency on goods warehoused, as he deems expedient; but, except where it is otherwise provided by such regulations, the duties shall be payable on the quantity originally warehoused. 10, 11 V. c. 31, s. 29.

All charges and expenses of unshipping, landing, &c., to be borne by the Importer.

48. The unshipping, carrying and landing of all goods, and the bringing of the same to the warehouse or the proper place after landing, and the opening, unpacking and repacking of the same for examination or for weighing or guaging, as the case may be, and the putting of the same into the scales, and the letting out of and from the scales after weighing, warehouse rent and expenses of safe keeping in warehouse, and all other expenses attending any thing to be done with such goods in order to carry this chapter into effect, shall be performed by or at the expense of the importer of such goods. 10, 11 V. c. 31, s. 30.

Not less than a certain quantity of goods to be taken out of warehouse at one time.

49. No parcel of goods shall be taken out of warehouse, whether for consumption in this Province or removal to some other port, unless the duties thereon amount to the sum of five pounds or upwards, or such parcel be all the goods remaining in warehouse, and comprised in the same entry for warehousing. 12 V. c. 1, s. 25.

Goods entered for warehousing to be deemed warehoused in certain cases.

50. If after any goods have been duly entered, or landed to be warehoused, or entered and examined to be rewarehoused, and before the same have been actually deposited in the warehouse, the importer further enters the same or any part, for home use or for exportation as from the warehouse,—the goods so entered shall be considered as virtually and constructively warehoused or rewarehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation. 10, 11 V. c. 31, s. 32.

Bond to be given on entry for exportation of goods from warehouse—conditions.

51. Upon the entry outwards of any goods to be exported from the Customs' warehouse, either by sea or by land or inland navigation, as the case may be, the person entering the same shall give security by bond, in double the duties of importation on such goods, and with a sufficient surety, to be approved by the Collector or proper officer, that the same shall, when

when the entry aforesaid is by sea, be actually exported, and when the entry aforesaid is by land or inland navigation, shall be landed or delivered at the place for which they are entered outwards, or shall in either case be otherwise accounted for to the satisfaction of the Collector or proper officer, and such proof or certificate that such goods have been so exported, landed, or delivered, or otherwise legally disposed of, as the case may be, as shall be required by any regulation of the Governor in Council, shall be produced to the Collector or proper officer within a period to be appointed in such bond. 10, 11 V. c. 31, s. 33.

ENTRY OUTWARDS.

32. The master of every vessel bound outwards from any port in this Province to any port or place beyond seas, or on any voyage to any place without the limits of this Province, shall deliver to the Collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country and tonnage, (and if British, the port of registry,) the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such vessel :

Entry of vessel outwards.

Particulars of such entry.

And before such vessel departs, the master shall bring and deliver to the Collector, or other proper officer, a content in writing under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him ;

Content to be delivered.

Particulars required in it

Declaration to be made.

33. And the master of every vessel bound outwards from any port in this Province to any port or place beyond seas, or on any voyage to any place without the limits of this Province, whether in ballast or laden, shall, before departure, come before the Collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as may be demanded of him by such officer ;— and thereupon the Collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be ;

Questions to be answered.

Clearance to be granted.

And if the vessel departs without such clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, he shall forfeit the sum of one hundred pounds. 10, 11 V. c. 31, s. 31.

Penalty for leaving without a clearance or not answering questions truly.

Governor in Council may require statistical information as to exports.

53. The Governor in Council may, by Regulations to be from time to time made in that behalf, require such information with regard to the description, quantity, quality and value of goods exported from this Province, to be given to the proper Officer of the Customs, in the Entry of such goods outwards or otherwise, as he deems requisite for statistical purposes, whether such goods be exported by sea, land or inland navigation. 12 V. c. 1, s. 21.

DRAWBACKS.

Drawbacks.

54. Upon the exportation from this Province of any articles manufactured therein out of materials imported into it, and upon which any Duty of Customs has been paid,—or of any spirits, or of any beer or other malt liquor, distilled, made or brewed in this Province, and on which a Duty of Excise has been paid,—the Collector of Customs at the Port whence the same are exported may pay out of any public moneys in his hands, to the person entering the same for exportation, such drawback thereon, not exceeding the amount of the Provincial Duty of Customs or of Excise which has been paid on the materials out of which such article has been manufactured, or on such spirits, beer or other malt liquor, as shall be directed by an Order in Council then in force, subject to the observance of such conditions, and the giving of such bond or other security by such exporter, as shall be prescribed by Regulations to be made by the Governor in Council from time to time. V. c. 76, s. 8.

SMUGGLING—AND OFFENCES CONNECTED THEREWITH.

Penalty on persons smuggling goods, using false invoices, &c.

55. If any person knowingly and wilfully, with intent to defraud the revenue of this Province, smuggles or clandestinely introduces into this Province any goods subject to duty, without paying or accounting for the duty thereon, or makes out or passes or attempts to pass through the Custom House, any forged or fraudulent Invoice, or in any way attempts to defraud the revenue by evading the payment of the duty or of any part of the duty on any goods, every such person, his, her or their aiders or abettors shall, in addition to any other penalty or forfeiture to which they may be subject for such offence, be deemed guilty of a misdemeanor, and on conviction shall be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding one year, or both, in the discretion of the Court before whom the conviction is had. 12 V. c. 1, s. 19.

Forfeiture and penalty for offering for sale goods pretended to be smuggled.

56. If any person offers for sale any goods under pretence that the same are prohibited, or have been unshipped and landed on shore, or brought in, by land or otherwise, without payment of duties, then and in such case all such goods (although not liable to any duties nor prohibited) shall be forfeited, and every person

person offering the same for sale shall forfeit the treble value of such goods, or the penalty of fifty pounds, at the election of the prosecutor, which penalty shall be recoverable in a summary way, before any one or more Justices of the Peace; and in default of payment on conviction, the party so offending shall be committed to any of Her Majesty's Jails for a period not exceeding sixty days. 10, 11 V. c. 31, s. 37.

57. If any person knowingly harbours, keeps, conceals, purchases, sells or exchanges any goods illegally imported into this Province, (whether such goods are dutiable or not) or whereon the duties lawfully payable have not been paid, such person shall for such offence forfeit treble the value of the said goods, as well as the goods themselves. 10, 11 V. c. 31, s. 43. Penalty for harboring persons found with smuggled goods.

58. If any five or more persons in company are found together and they or any of them have any goods liable to forfeiture under this Chapter, every such person shall be guilty of misdemeanor and punishable accordingly. 10, 11 V. c. 31, s. 40. Company of persons found with smuggled goods. Misdemeanor.

59. Any person who by any means procures or hires any person or persons, or who deposes, authorizes or directs any person or persons to assemble for the purpose of being concerned in the landing or unshipping or carrying or conveying any goods which are prohibited to be imported, or the duties for which have not been paid or secured, shall, for every person so procured or hired, forfeit the sum of twenty-five pounds. 10, 11 V. c. 31, s. 41. Penalty for hiring persons to assist in smuggling, &c.

60. If any warehoused goods are fraudulently concealed in or removed from any public or private warehouse in this Province, such goods shall be forfeited;—And any person fraudulently concealing or removing any such goods, or aiding or abetting such removal, shall incur the penalties imposed on persons illegally importing or smuggling goods into this Province: Penalty on persons committing certain offences with regard to warehoused goods.

And if the importer or owner of any warehoused goods, or any person in his employ, by any contrivance fraudulently opens the warehouse in which the goods are, or gains access to the goods except in the presence of or with the express permission of the proper officer of the Customs acting in the execution of his duty,—such importer or owner shall for every such offence forfeit the sum of two hundred and fifty pounds; Penalty for fraudulently opening warehouse.

And any person wilfully altering, defacing or obliterating any mark placed by any officer of the Customs on any package of warehoused goods, shall for every such offence forfeit the sum of one hundred and twenty-five pounds. 16 V. c. 85, s. 7. Penalty for altering or defacing marks.

Vessels, &c.,
used in con-
veying forfeit-
ed goods to be
forfeited.

Penalty for
assisting in
landing, &c.,
such goods.

Election of
officer as to
proof how
proved.

Vessels found
hovering may
be boarded
and examined.

Vessels conti-
nuing to hover
may be
brought into
Port.

Penalty for
not obeying
the officer
boarding.

Punishment of
persons taking
away goods,
&c., seized—
such offence
to be felony.

Penalty on
officers of the
Customs, &c.,
conniving at
any evasion of

61. All vessels with the guns, tackle, apparel and furniture thereof, carriages, harness, tackle, horses, and cattle made use of in the removal of any goods liable to forfeiture under this Chapter, shall be forfeited; and every person assisting or otherwise concerned in the unshipping, landing or removal, or in the harbouring of such goods, or into whose hands or possession the same knowingly come, shall, besides the goods themselves, forfeit treble the value thereof, or the penalty of fifty pounds at the election of the officer of Customs or of the party suing for the same :

And the averment in any information or libel exhibited for the recovery of such penalty, that such officer or party has elected to sue for the sum mentioned in the information or libel, shall be sufficient proof of such election, without any other evidence of the fact. 10, 11 V. c. 31, s. 44.

62. If any vessel is found hovering (in British waters) within one league of the coasts or shores of this Province, any officer of Customs may go on board and enter into such vessel, and freely stay on board such vessel, while she remains within the limits of this Province;—And if any such vessel is bound elsewhere, and so continues hovering for the space of twenty-four hours after the master has been required to depart by such officer of Customs, such officer may bring the vessel into port, and examine her cargo, and if any goods prohibited to be imported into this Province are found on board, then such vessel with her apparel, rigging, tackle, furniture, stores and cargo, shall be forfeited;—And if the master or person in charge refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him, respecting such ship and vessel or her cargo, he shall forfeit and pay the sum of one hundred pounds. 10, 11 V. c. 31, s. 42.

63. If any person whatever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, carriage or other thing which has been seized or detained on suspicion, as forfeited under this chapter, before the same has been declared by competent authority to have been seized without due cause, and without the permission of the officer or person having seized the same, or of some competent authority,—such person shall be deemed to have stolen such goods, being the property of Her Majesty, and to be guilty of felony, and shall be liable to punishment accordingly. 10, 11 V. c. 31, s. 45.

64. If any officer of the Customs, or any person who, with the concurrence of the Governor in Council expressed; either by special order or appointment or by general regulation, is employed for the prevention of smuggling, makes any collusive seizure,

seizure, or delivers up, or makes any agreement to deliver up the Revenue
 or not to seize any vessel, boat, carriage, goods or thing liable Laws;
 to forfeiture under this chapter, or takes or accepts a promise
 of any bribe, gratuity, recompense or reward for the neglect or
 5 non-performance of his duty, such officer or other person shall
 forfeit for every such offence the sum of five hundred pounds,
 and be rendered incapable of serving Her Majesty in any office
 whatever;—And every person who gives or offers or promises
 to give or procure to be given, any bribe, recompense or
 10 reward to, or makes any collusive agreement with any such
 officer or person as aforesaid, to induce him in any way to
 neglect his duty, or to conceal, or connive at any act where-
 by the provisions of this chapter or any law relating to the Cus-
 15 toms, trade or navigation, might be evaded, shall forfeit the
 sum of five hundred pounds. 10, 11 V. c. 31, s. 71.

And on per-
sons bribing
them to con-
nive.

65. If any goods, vessel, or carriage, subject or liable To what place
 to forfeiture under this chapter or any other Law relating goods, &c., are
 to the Customs is stopped or taken by any Police Officer or to be taken.
 any person duly authorized,—such goods shall be carried to the
 20 Custom House next to the place where the goods were stopped
 or taken, or to the place which has been appointed for that
 purpose by the Governor in Council, and there delivered to
 the proper officer appointed to receive the same, within forty-
 25 eight hours after the said goods were stopped and taken. 10,
 11, V. c. 31, s. 46.

66. If any such goods are stopped or taken by such Police Officer on suspicion that the same have been feloniously stolen,
 such Officer shall carry the same to the Police Office to which
 30 the offender is taken, there to remain until, and in order to be
 produced at the trial of the said offender;—And in such case,
 the Officer shall give notice in writing to the Collector or prin-
 cipal officer of Her Majesty's Customs, at the port nearest to
 the place where such goods have been detained, of his having
 35 so detained the said goods with the particulars of the same;
 And immediately after the trial, all such goods shall be convey-
 ed to and deposited in the Custom House or other place ap-
 pointed as aforesaid, and proceedings relative to the same
 shall be had according to Law :

How smuggled
goods stopped
on suspicion of
being stolen,
and taken to
the Police
office, shall be
dealt with.

And in case any Police Officer having detained such
 40 goods, neglects to convey the same to such warehouse, or to
 give such notice of having stopped the same as before des-
 cribed, such officer shall forfeit the sum of twenty-five pounds;
 and such penalty shall be recoverable in a summary way before
 45 any one or more Justices of the Peace, and in default of payment
 the party so offending shall be committed to any of Her Majesty's
 Jails for a period not exceeding thirty days. 10, 11 V. c. 31,
 s. 47.

Penalty on
any Police
officer neglect-
ing to obey
this section.

Penalty for forging marks, &c., or selling goods with counterfeit marks.

Imprisonment in default of payment.

False swearing to be perjury.

Penalty for counterfeiting or using counterfeited papers, &c.

Or forging certificates, &c.

Penalty for a false declaration or answer in cases not otherwise provided for.

Officers employed in the Customs or under Cap. 16, to be deemed employed for

67. If any person at any time forges or counterfeits any mark or brand to resemble any mark or brand provided or used for the purposes of this chapter, or forges or counterfeits the impression of any such mark or brand, or sells or exposes to sale, or has in his custody or possession, any goods with a counterfeit mark or brand, knowing the same to be counterfeit, or uses or affixes any such mark or brand to any other goods required to be stamped as aforesaid, other than those to which the same was originally affixed, such goods so falsely marked or branded shall be forfeited, and every such offender, and his aiders, abettors or assistants, shall, for every such offence, forfeit and pay the sum of fifty pounds; which penalty shall be recoverable in a summary way, before any two Justices of the Peace in this Province, and in default of payment the party so offending shall be committed to any of Her Majesty's Jails in this Province, for a period not exceeding twelve calendar months:

And if any wilfully false oath be made in any case where by this chapter an oath is required or authorized, the party making the same shall be guilty of wilful and corrupt perjury and liable to the punishment provided for that offence. 10, 11 V. c. 31, s. 35.

68. If any person counterfeits or falsifies, or uses when so counterfeited or falsified, any paper or document required under this chapter or for any purpose therein mentioned, whether written, printed, or otherwise, or by any false statement procures such document,—or forges or counterfeits any certificate relating to any oath, affirmation or declaration, hereby required or authorized, knowing the same to be so forged or counterfeited, such person shall be guilty of a misdemeanor, and being thereof convicted, shall be liable to be punished accordingly. 10, 11 V. c. 31, s. 36.

69. Except in the cases otherwise provided for, if any declaration required to be made by this chapter or by any Law relating to the Customs, or to trade or navigation, is untrue in any particular,—or except as aforesaid, if any person required by this chapter or by any other law as aforesaid to answer questions put to him by any officer of the Customs touching certain matters, does not truly answer such questions, the person making such untrue declaration or not truly answering such questions, shall, over and above any other penalty to which he becomes subject, forfeit the sum of one hundred pounds, currency. 10, 11 V. c. 31, s. 68.

70. All officers and persons employed under the authority of any enactment in Chapter *sixteen of these Consolidated Statutes*, or in the collection of the revenue within the meaning of that chapter, or under the direction of any officer or officers in the Customs Department, or being an officer of the said department,

department, shall be deemed and taken to be duly employed for the prevention of smuggling ;--And in any suit or information, the prevention of smuggling ;--And in any suit or information, the averment that such party was so duly employed shall be sufficient proof thereof, unless the defendant in such suit or information shall prove to the contrary :

the prevention of smuggling.

What averment of such employment shall suffice.

2. Every such officer or person as aforesaid, may upon information or upon reasonable grounds of suspicion, detain, open and examine any package suspected to contain prohibited property or smuggled goods, and may go on board of and enter into any vessel, boat, canoe, carriage, waggon, cart, sleigh, or other vehicle or means of conveyance of any description whatsoever, and may stop and detain the same, whether arriving from places beyond or within the limits of this Province, and may rummage and search all parts thereof, for prohibited, forfeited or smuggled goods ;--And if any such prohibited, forfeited or smuggled goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness, and all other appurtenances which at the time of such seizure belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon, and the same shall be forfeited ;

Their powers :

To search.

To detain vessels, carriages, &c.

To seize in certain cases.

3. The officer or person in the discharge of the said duty, may call in such lawful aid and assistance in the Queen's name, as may be necessary for securing and protecting such seized vessels, vehicles or property ;--And if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited or smuggled goods would be found therein, shall not be liable to any prosecution or action at law for any such search, detention or stoppage ;

To call on persons to assist.

Reasonable cause of suspicion to be their justification.

4. All masters or persons in charge of any such vessels, and all drivers or persons conducting or having charge of such vehicles or conveyances, refusing to stop when required to do so by such officer or person as aforesaid in the Queen's name, and any person being present at any such seizure or stoppage, and being called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, and refusing so to do, shall forfeit and pay the sum of fifty pounds, which penalty shall be summarily recovered before any two Justices of the Peace in this Province, and in default of payment the offender shall be committed to any of Her Majesty's Jails in this Province, for a period not exceeding six months. 10, 11 V. c. 31, s. 38.

Penalty for refusing to stop ;

Or to assist.

Mode of recovery.

Under authority of a Writ of Assistance granted either before or after the coming into force of this chapter, (and all such Writs theretofore granted shall remain in full force for the purposes of this chapter,) by any Judge of the Court of Queen's Bench or of the Common Pleas in Upper Canada, or

Writs of assistance how obtainable, and the powers of those acting under them.

of the Superior Court or of the Court of Vice Admiralty in Lower Canada, having jurisdiction in the place (who shall grant such Writ of Assistance upon application made to him for that purpose by the Collector or principal officer of the Customs at the port or place, or by Her Majesty's Attorney General or Solicitor General,)—any officer of the Customs, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation, taking with him a peace officer, may enter in the day time any building or other place within the jurisdiction of the Court granting such Writ, and may search for and seize and secure any goods liable to forfeiture under this chapter, and, in case of necessity, may break open any doors and any chests or other packages for that purpose :—And such Writ of Assistance, when issued, shall be in force during the whole of the Reign in which the same shall have been granted, and for twelve months from the conclusion of such Reign. 10, 11 V. c. 31, s. 69.

How search shall be made.

Duration of writ.

Punishment of persons obstructing, assaulting or resisting officers, &c.

Firing at H. M.'s vessels.

Bounding persons in H. M.'s service ;

Or having goods liable to seizure, and being armed or disguised ;

Or destroying vessels or goods, or any Custom house, &c.

Such offences to be felony.

72. If any person, under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, opposes, molests or obstructs any officer of Customs, or any person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Chapter, or any other Law of this Province relating to Customs, trade or navigation,—or wilfully or maliciously shoots at or attempts to destroy or damage any vessel, belonging to Her Majesty, or in the service of the Province, or maims or wounds any officer of the Army, Navy, Marine, or Customs, or any person acting in his aid or assistance, while duly employed for the prevention of smuggling, and in execution of his or their duty,—or if any person is found with any goods liable to seizure or forfeiture, under this Chapter or any other Law relating to Customs, trade or navigation, and carrying offensive arms or weapons, or in any way disguised,—or staves, breaks or in any way destroys any such goods, before or after the actual seizure thereof,—or scuttles, sinks or cuts adrift any vessel, or destroys or injures any vehicle, before or after the seizure,—or wilfully and maliciously destroys or injures by fire or otherwise any Custom-house, or any building whatsoever in which seized or forfeited goods are deposited or kept,—such persons being convicted thereof, shall be adjudged guilty of felony, and shall be punishable accordingly. 10, 11 V. c. 31, s. 39.

PROCEDURE FOR ENFORCING PENALTIES.

In what Courts Penalties and forfeitures shall be recoverable.

73. All penalties and forfeitures, incurred under this chapter, or any other law relating to the Customs or to trade or navigation, may be prosecuted, sued for and recovered in the Superior Courts of Law, or Court of Vice Admiralty having jurisdiction in that section of this Province where the cause of prosecution arises, or wherein the Defendant is served with process ;—

process ;---And if the amount or value of any such penalty or forfeiture does not exceed fifty pounds, the same may also be prosecuted, sued for and recovered in any County Court or Circuit Court having jurisdiction in the place where the cause of prosecution arises or when the defendant is served with process. 10, 11 V. c. 31, s. 51.

If the amount be under £50.

74. All penalties and forfeitures imposed by this chapter or by any other Act relating to the Customs or to trade or navigation, shall, unless other provision be made for the recovery thereof, be sued for, prosecuted and recovered with costs by Her Majesty's Attorney General, or Solicitor General, or in the name or names of some officer or officers of the Customs, or other person or persons thereunto authorized by the Governor in Council, either expressly or by general regulation or order, and by no other party ; and if the prosecution be brought before any County Court or Circuit Court, it shall be heard and determined in a summary manner upon information filed in such Court. 10, 11 V. c. 31, s. 52,—part.

In whose name prosecutions may be commenced.

75. All penalties and forfeitures imposed by this chapter or by any other Law relating to the Customs or to Trade or Navigation, may, in Lower Canada, be sued for, prosecuted and recovered with costs by the same form of proceeding as any other moneys due to the Crown, and all suits or prosecutions for the recovery thereof, shall, in Lower Canada, be heard and determined in like manner as other suits or prosecutions in the same Court for moneys due to the Crown, except that in the Circuit Court the same shall be heard and determined in a summary manner as provided in this chapter :

In Lower Canada how penalties and forfeitures shall be recoverable.

2. But nothing in this Section shall affect any provisions of this chapter, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid. 12 V. c. 1, s. 26.

76. If the prosecution to recover any penalty or forfeiture imposed by this chapter, or by any other law relating to the Customs or to Trade or Navigation, is brought in any Superior Court of law in Upper Canada, it shall be heard and determined as prosecutions for penalties and forfeitures are heard and determined in Her Majesty's Court of Exchequer in England, except only in so far as may be otherwise provided by any law of this Province relating to the procedure in Upper Canada, in suits instituted on behalf of the Crown in matters relating to the Revenue ; and any such law shall apply to prosecutions for the recovery of forfeitures and penalties under this chapter, in whatever Court they are instituted, so far as it can be applied thereto consistently with this chapter. 10, 11 V. c. 31, s. 52, as modified by 20 V. c. 2.

In Upper Canada how penalties and forfeitures shall be recoverable.

Defendant may be required to give security for the penalty and costs, or imprisoned until he does so.

77. Upon the exhibiting or filing of any information or other proceeding for the recovery of any penalty or forfeiture under the provisions of this chapter, any Judge of the Court in which the prosecution is brought, may, upon affidavit filed by the officer or person bringing such prosecution, showing that there is reason to believe that the defendant will leave this Province without satisfying such penalty,--issue a warrant under his hand and seal for the arrest and detention of the defendant in the Common Jail of the District, until he has given security, (before and to the satisfaction of such Judge or some other Judge of the same Court) for the payment of such penalty with costs, in case he be convicted :

Those who sue for any penalty or forfeiture, to recover full costs of suit.

How penalties and costs may be levied.

2. And in every suit or proceeding brought under this chapter for any penalty or forfeiture, or upon any bond given under it, or in any matter relating to the Customs, Her Majesty, or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit :--And all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the Defendant, in the same manner as sums recovered by judgment of the Court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias ad satisfaciendum* against the person of the defendant under the same conditions and in like manner. 10, 11 V. c. 31, s. 49.

Appropriation of penalty and forfeitures.

78. The forfeiture and penalty, after deducting the expenses of prosecution, shall, unless it be otherwise provided, belong to Her Majesty for the public uses of the Province :

Distribution of the proceeds of penalties and forfeitures.

But the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to the Collector or chief officer of the Customs at the port or place where the seizure was made or the information given on which the prosecution was founded, and any person having given information or otherwise aiding in effecting the condemnation of the goods, vessel or thing seized, or the recovery of the penalty, in such proportions as the Governor in Council may in any case or class of cases direct and appoint : But nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council with regard to the remission of penalties or forfeitures by this chapter or any other law. 10, 11 V. c. 31, s. 52--*the latter part.*

Power to remit penalty.

Notices to be posted in the Custom House and in the office of the Clerk of the Court.

79. So soon as an information has been exhibited in any Court for the condemnation of any vessel, goods or thing seized, notice thereof shall be put up in the office of the Clerk or Prothonotary of the Court, and also in the office of the Collector or chief officer of the Customs, at the port at which the vessel, goods or thing has been secured as aforesaid :

2. If the owner or person having charge of the vessel, goods or thing, exhibits a claim to the same or to any part thereof, and gives security, and complies with all the requirements of this chapter in that behalf, then the said Court at its sitting next 5 after the said notice has been so posted during one calendar month, may proceed to hear and determine any claim which has been validly made and filed in the meantime, and to the release or condemnation of such vessel, goods or thing as the case requires—otherwise the same shall, after the expi- 10 ration of such calendar month, be deemed to be condemned as aforesaid, and may be sold without any formal condemnation thereof ;

When the case shall be heard, if claim be made, and security given.

3. No claim on the behalf of any party who has given notice of his intention to claim before the posting of such notice 15 as aforesaid, shall be admitted, unless validly made within one week after the posting thereof ;—nor shall any claim be admitted, unless notice thereof has been given to the Collector within one calendar month from the seizure as aforesaid. 10, 11 V. c. 31, s. 58.

Claims not to be admitted unless made within a certain time ; Nor without notice.

20 30. All vessels, vehicles, goods and other things seized as forfeited under this chapter or any other Act relating to Customs, or to trade or navigation, shall be deemed and taken to be condemned, and may be dealt with accordingly, unless the person from whom they were seized, or the owner thereof, 25 do, within one calendar month from the day of seizure, give notice in writing to the seizing officer or other chief officer of Customs at the nearest port, that he claims or intends to claim the same :

Things seized to be deemed condemned, if not claimed within a certain time.

30 But any Judge having competent jurisdiction to try and determine the seizure, may, with the consent of the Collector at the place where the seized articles are secured, order the delivery thereof to the owner, on receiving security by bond with two sufficient sureties, to be first approved by 35 such Collector, to pay double the value in case of condemnation,—which bond shall be taken to Her Majesty's use in the Collector's name, and shall be delivered to and kept by such Collector ;—And in case such seized articles are con- 40 demned, the value thereof shall be forthwith paid to the Collector and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. 10, 11 V. c. 31, s. 48.

They may be delivered to the owner on due security being given.

Conditions of the bonds.

45 31. In case of the seizure of any cattle, horse or other animal, or of any perishable article, the Collector of the port at which the same has been secured as aforesaid, may sell the same 50 within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed, by reason of the expense of keeping or the decay of the same, as if it had been condemned,—

Cattle and perishable articles seized may be sold as if condemned.

Proceeds restored, if the seizure be declared null.

condemned,—and may keep in his hands the proceeds of such sale until the same has been condemned, or deemed to be condemned, or ordered to be restored to any claimant, in which last mentioned case, the Court before which the claim is heard shall order the Collector to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution :

Such cattle or article may be delivered to the owner on security being given.

Nevertheless, the Collector or principal officer of Customs shall deliver up to any claimant, any horse, cattle, animal, or perishable article seized as aforesaid, upon such claimant depositing in the hands of the Collector or principal officer such sum of money as will represent the full value thereof, or giving security to the satisfaction of such Collector or principal officer, that the value of such seizure and all costs shall be paid to the use of Her Majesty, if such article be condemned. 10, 11 V. c. 31, s. 55.

How claims must be entered, in order to be valid.

82. No claim to any thing seized under this chapter, and returned into any of Her Majesty's Courts for adjudication, shall be admitted as valid, unless such claim is entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing is made by the owner, or by his agent knowing the fact, by whom such claim is entered, to the best of his knowledge and belief. 10, 11 V. c. 31, s. 56.

Claim not to be valid unless security be given to pay the costs and any penalty incurred.

83. No person so admitted to claim, as aforesaid, shall enter a claim to, or shall be deemed to have validly claimed any vessel, goods or thing seized in pursuance of this chapter, or of any law relating to the Customs or to trade or navigation, until sufficient security has been given to the satisfaction of the Court where such seizure is prosecuted, in a penalty not exceeding fifty pounds, to answer and pay the costs occasioned by such claim, and any penalty incurred by the claimant in respect of such vessel, goods or thing ;—And in default of giving such security, such vessel, goods or thing, shall be dealt with as if no claim had been made, and after the lapse of the period in that behalf provided shall be deemed to be condemned. 10, 11 V. c. 31, s. 57.

Proof that goods have paid duty to lie on the owner.

84. If any goods are seized for non-payment of duties or any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this chapter or any other law relating to the Customs, and any question arises whether the duties have been paid on such goods, or the same have been lawfully imported, or lawfully laden or exported, or whether any other thing hath been done by which such forfeiture would be prevented or such penalty avoided,—the burden of proof shall lie on the owner or claimant of the goods, and not on the officer who has seized and stopped the same, or the party bringing such prosecution. 10, 11 V. c. 31, s. 53.

85. In any prosecution or other proceeding, for an offence against this chapter or any other law relating to the Customs, or to trade and navigation, the averment that such offence was committed within the limits of any port, shall be sufficient without proof of such limits, unless the contrary is proved. 10, 11 V. c. 31, s. 54.

Averment as to the doing of any thing within the limits of any port.

86. All sales of goods forfeited or otherwise liable to be sold by any Officer of the Customs under this chapter shall be by public auction, and after a reasonable public notice, and subject to such further regulations as may be made by the Governor in Council. 10, 11 V. c. 31, s. 59.

Sales to be by public auction.

87. All actions or suits for the recovery of any of the penalties or forfeitures imposed by this chapter, or any other Law relating to the Customs, may be commenced or prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture was incurred, but not afterwards. 10, 11 V. c. 31, s. 65.

Limitation of time for bringing suits for penalties, &c.

88. An appeal shall lie from the conviction by any Justices of the Peace under this chapter to the Quarter Sessions, to be tried by a Jury in the same manner as from convictions in any case of summary punishment allowed by Law, on furnishing security by bond or recognizance with two sureties to the satisfaction of such convicting Justices, to abide the event of such appeal :

Appeals from convictions before Justice of the Peace.

2. And an appeal shall also lie from the said County Courts and Circuit Court, and from decisions or judgments of the Superior Courts of Law respectively, in cases where the amount of the penalty or forfeiture is such that if a judgment for a like amount were given in any civil case, an appeal would lie ; and such appeal shall be allowed and prosecuted on like conditions, and subject to like provisions as other appeals from the same Court, in matters of like amount ;

And from County and Circuit Courts.

3. But if the appeal be brought by Her Majesty's Attorney General, or Solicitor General, it shall not be necessary for him to give any security on such appeal. 10, 11 V. c. 31, s. 66.

The Attorney and Sol. Gen. appealing need not give security.

89. In any case in which proceedings have been instituted in any Court against any vessel, goods or thing, for the recovery of any penalty or forfeiture under this chapter or any law relating to the Customs, trade or navigation, the execution of any decision or judgment for restoring the vessel, goods or thing to the claimant thereof, pronounced by the Court in which the proceedings have been had, shall not be suspended by reason of any appeal prayed and allowed from such decision or judgment, provided the party appellant gives sufficient security, to be proved of by the Court, to render and deliver the vessel, goods or things concerning which such decision or judgment is pronounced

Restoration of goods, &c., not to be prevented by appeal, provided security be given.

pronounced, or the full value thereof, (to be ascertained, either by agreement between the parties, or in case the said parties cannot agree, then by appraisement under the authority of the said Court) to the appellant, in case the decision or judgment so appealed from be reversed and such vessel, goods or things be ultimately condemned. 10, 11 V. c. 31, s. 67. 5

On the trial of the validity of any seizure, no costs shall be recovered by plaintiff, if probable cause of seizure be certified.

Damages limited in actions arising out of seizure if probable cause for such seizure existed.

90. If any information or suit is brought to trial, or determined, on account of any seizure made under this chapter or any Law relating to the Customs, and a verdict is found, or decision or judgment given for the claimant thereof, and the Judge or Court before whom the cause has been tried or brought, certifies on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment or other suit or prosecution on account of such seizure ;--And if any action, indictment, or other suit or prosecution is brought to trial against any person on account of such seizure, wherein a verdict or judgment is given against the defendant, the plaintiff, if probable cause is certified as aforesaid on the record, shall not, besides the thing seized or the value thereof, be entitled to more than one shilling damages nor to any costs of suit, nor shall the defendant in such prosecution in such case be fined more than six pence. 10, 11 V. c. 31. s. 64, *extended by* 13, 14 V. c. 17, s. 19. 10 15 20

PROTECTION OF OFFICERS.

What notice of action for things done under this Act shall be given.

91. No writ shall be sued out against, nor a copy of any process served upon any officer of the Customs or person employed for the prevention of smuggling as aforesaid, for any thing done in the exercise of his office, until one calendar month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent ;--And no evidence of any cause of such action shall be produced except of such as is contained in such notice,--and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial, that such notice was given ;--and in default of such proof, the defendant shall receive a verdict or judgment and costs. 10, 11 V. c. 31, s. 60. 25 30 35 40

What evidence only may be adduced on the trial.

Officer may tender amends and plead such tender in bar.

92. Any such officer or person against whom an action is brought on account of any such seizure, or of any thing done in the exercise of his office, may, within one calendar month after such notice, tender amends to the party complaining or his agent, and plead such tender in bar to the action, together with other pleas ; and if the Court or jury (as the case may be) find the 45

the amends sufficient, they shall give a judgment or verdict for the defendant; and in such case, or in case the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only: But the defendant, by leave of the Court in which the action is brought, may at any time before issue joined, pay money into Court as in other actions. 10, 11 V. c. 31, s. 61.

Costs to defendant if successful.

Money may be paid into Court.

93. Every such action must be brought within three calendar months after the cause thereof, and laid and tried in the place or district where the facts were committed;—and the defendant may plead the general issue, and give the special matter in evidence;—And if the plaintiff becomes non-suited, or discontinues the action, or if upon a demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover costs, and have such remedy for the same as any defendant has in other cases where costs are given by Law. 10, 11 V. c. 31, s. 62.

Action to be brought, within a certain time and at a certain place.

Costs.

94. If in any such action, the Court or Judge before whom the action is tried certifies upon the record that the defendant in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than one shilling damages nor to any costs of suit. 10, 11 V. c. 31, s. 63.

If probable cause be certified upon the record, the plaintiff's costs and damages limited.

ORDERS OF THE GOVERNOR IN COUNCIL.

95. In addition to the powers hereinbefore mentioned,—the Governor in Council may from time to time, and in the manner hereinafter provided, make regulations for or relating to the following purposes and matters:—

Governor in Council may make regulations:

1. For the warehousing and bonding of such cattle and swine as may be slaughtered and cured, and of such wheat, maize and other grain as may be ground and packed in bond, and such sugar as may be refined in bond;

Slaughtering cattle, or grinding grain in bond;

2. For the branding and marking of all duty-paid goods, and goods entered for exportation, and for regulating and declaring what allowances shall be made for tare on the gross weight of goods;

Branding and marking goods, tare;

3. For declaring what shall be coasting trade, and how the same shall be regulated;

Coasting trade;

4. For appointing places and ports of entry, and warehousing and bonding ports, and respecting goods and vessels passing the Canals, and respecting the horses, vehicles and personal baggage of travellers, coming into this province or returning thereto, or passing through any portion thereof;

Ports of entry, &c.
Passing canals, &c.

For

- Exempting produce of grain or logs grown in the Province, &c., for duty in certain cases ; 5. For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of this Province into the United States to be ground, and brought back into this Province within two days after such wheat or grain has been so taken out to be ground,---or any boards, planks or scantling the produce of any logs or timber grown in and taken out of this Province into the United States to be sawn, and brought back into this Province within seven days after such logs or timber were so taken out to be sawn ;
- Quantity ; 6. For regulating the quantity to be so taken out or brought in at any one time by any party, and the mode in which the claim to exemption shall be established and proved ;
- Warehousing ; 7. For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, the allowance for natural waste or deficiency, and the amount of warehouse rent ;
- Extending time for clearing warehouse goods ; 8. For extending upon application, and if he sees fit, and either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another ;
- Transfers of goods in bond ; 9. For regulating the form in which transfers of goods in warehouse or bond from one party to another shall be entered ;
- Exemptions of duty under section ; 10. For exempting goods from duty as provided by the second section of this chapter, and regulating the mode of proving such exemption ;
- Distribution of penalties ; 11. For appointing the manner in which the proceeds of penalties and forfeitures shall be distributed ;
- Taking of bonds ; 12. For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or part remission of duty, indulgence or permission is granted to any party, or of any other condition made with such party, in any matter relating to the Customs or to trade or navigation ;---And such bonds and all bonds taken with the sanction of the Governor in Council, expressed either by general regulation or by special order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this chapter or any other law relating to the Customs. 10, 11 V. c. 31, s. 72.
- Recital of case. 13. And whereas it frequently happens that goods are conveyed directly through the Provincial Canals, or otherwise by land or inland navigation, from one part of the frontier line

line between this Province and the United States to another, without any intention of unloading such goods in this Province, and that travellers in like manner, pass through a portion of this Province or come into it with their carriages, horses or other cattle, drawing the same and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from this Province, return to it with such articles,--and, though the bringing of such goods and other articles into this Province is strictly an importation thereof, it may nevertheless be inexpedient that duties should be levied thereon :

With regard to all such cases as aforesaid, the Governor in Council may, from time to time and as occasion may require, make such regulations as to him seem meet, and may direct under what circumstances such duty shall be or shall not be paid, and on what conditions it shall be remitted or returned, and may cause such bonds or other security to be given, or such precautions to be taken at the expense of the importer (whether by placing Officers of the Customs on board any such vessel or otherwise) as to him seem meet ; and on the refusal of the importer to comply with the regulations to be so made, the duty on the goods so imported shall forthwith become payable;--And all and every horse and carriage, vehicle or goods of any kind, brought into this Province by any traveller or travellers exempted from duty under such regulation or otherwise shall, if sold or offered for sale, provided the duties thereon have not been previously paid, be held to have been illegally imported, and shall be forfeited, together with the harness or tackle employed therewith or in the conveyance thereof. 10, 11 V. c. 31, s. 50.

Governor in Council may make regulations as to the passing of goods through the Provincial Canals, &c.

Forfeiture for contravention.

For any other purpose for which by this chapter or any other law relating to the Customs or to trade and navigation, the Governor in Council is empowered to make orders or regulations;--it being hereby declared competent for him (if he deems it expedient) to make general regulations in any matter in which he may make a special order, and such general regulations shall apply to each particular case within the extent and meaning thereof, as fully and effectually as if the same referred directly to each particular case within the intent and meaning thereof, and the officers, functionaries and parties had been specially named therein.

Other purposes ;

General regulations to have the effect of special orders in cases to which they apply.

36. In any Regulation made by the Governor in Council, under this chapter, any oath or affirmation may be prescribed, and required which the Governor in Council deems necessary to protect the Revenue against fraud ; and any person or officer may be authorized to administer the same. 12 V. c. 1, s. 27.

Regulations by Governor in Council may require oaths, &c.

Penalties and forfeitures for contravention of such regulations. **97.** All goods shipped or unshipped, imported or exported, carried or conveyed, contrary to any regulation so made by the Governor in Council, and all goods or vehicles and all vessels under the value of one hundred pounds currency, with regard to which the requirements of any such regulation have not been complied with, shall be forfeited, and if such vessel be of or over the value of one hundred pounds, the master thereof shall by such non-compliance incur a penalty of one hundred pounds; And any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, before the same Court and tribunal as if incurred by the contravention of any direct provision of this Chapter. 10, 11 V. c. 31, s. 73—*part.* 5

How recoverable.

Mode of publication of regulations. **98.** All general regulations made by the Governor in Council under this Chapter, shall have effect from and after the day on which the same have been published in the Official Gazette, or from and after such later day as may be appointed for the purpose in such regulations, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same are revoked or altered;---And all such regulations may be revoked, varied or altered by any subsequent regulation;---And a copy of the Official Gazette containing any such regulation shall be evidence of such regulation to all intents and purposes whatsoever. 10, 11 V. c. 31, s. 73—*part.* 15

Revocation.

How regulations may be proved.

Certain copies of Orders in Council to be evidence. **99.** Any copy of an Order of the Governor in Council made in any special matter and not being a general regulation, certified as a true copy of such Order by the Clerk of the Executive Council or his Deputy, shall be evidence of such Order to all intents and purposes whatsoever. 10, 11 V. c. 31, s. 74. 25

MISCELLANEOUS PROVISIONS.

Affirmation to be made instead of an oath in certain cases, &c. **100.** In every case where the person required to take any oath under this chapter is one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may instead of the oath hereby required make a solemn affirmation to the same effect; and every person before whom any oath is by this chapter or by any Regulation to be made under it, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same; and the wilfully making any false statement in any such oath, shall be perjury, and the wilfully making any false statement in any such solemn affirmation, shall be a misdemeanor punishable as perjury. 12 V. c. 1, s. 28. 30 35 40

Punishment for false statements.

Time of importation, &c., defined. **101.** Whenever on the levying of any duty, or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel,---such importation, if made by sea, 45 coastwise, or by inland navigation in any decked vessel, shall be

be deemed to have been completed from the time the vessel in which such goods were imported, came within the limits of the port at which they ought to be reported, and if made by land, or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of this province ;--And the exportation of any goods shall be deemed to have been completed from the time of the legal shipment of such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of the province, if the exportation be by land or in any undecked vessel ;--And the time of the arrival of any vessel shall be deemed to be the time at which the report of such vessel was, is or ought to have been made, and the time of the departure of any vessel to be the time of the last clearance of such vessel on the voyage for which she departed. 10, 11 V. c. 31, s. 78.

And of exportation ;

And of arrival and departure of vessels.

102. Although any duty of Customs has been overpaid, or although after any duty of Customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the law, no such overcharge shall be returned after the expiration of three years from the date of such payment. 10, 11 V. c. 31, s. 77.

Duties overpaid not returnable after three years, though wrongly paid.

103. All bonds and securities, of what kind and nature soever, authorized to be taken by any Law relating to Customs, Trade or Navigation, shall be taken by the Collector or principal officer of the Customs at the place where the same are to be taken, and to and for the use and benefit of Her Majesty ;-- And such bonds shall be taken before the delivery of any goods, vessel, carriage or vehicle, horses or cattle, of any kind or description whatsoever, and before the performance of any act or matter with regard to which the taking of any such bond or bonds is required ;--And all such bonds and securities shall be, as nearly as practicable, uniform, and printed or lithographed forms thereof shall be kept in each and every office of Customs throughout the Province. 10, 11 V. c. 31, s. 75.

By whom bonds shall be taken to Her Majesty's use.

To be given prior to the delivery, &c., of the goods.

Forms to be kept in all offices of the Customs.

104. All forms and papers necessary for the transaction of any business at the respective Custom Houses or places or ports of entry in this Province, shall be printed uniformly, and supplied by the proper officer to all Collectors or other officers in any Custom House, and other officers of Customs at any port or place of entry within the Province, for the use of persons transacting Customs business thereat. 10, 11 V. c. 31, s. 76.

Blank forms of papers to be kept at Custom Houses.

105. Whenever any person makes any application to an officer of the Customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such

Person applying to transact business on behalf of another, to produce written authority.

Any thing done by such agent to be binding.

such authority, may refuse to transact such business ;--And any act or thing done or performed by such agent, shall be binding upon the person by or on behalf of whom the same is done or performed, to all intents and purposes, as fully as if the act or thing had been done or performed by the principal. 10, 11 V. c. 31. s. 14.

Such agent may execute any bond or agreement, thereby binding his principal.

106. Any Attorney and Agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the Collector, may in his said quality validly make any Entry or execute any Bond or other Instrument required by this chapter, and shall thereby bind his principal as effectually, as if such principal had himself made such Entry or executed such Bond or other Instrument, and may take the oath hereby required of a Consignee or Agent, if he be cognizant of the facts therein averred :--And any Instrument appointing such Attorney and Agent shall be valid if in the form in the Schedule B hereunto annexed, or in any form of words to the like effect. 12 V. c. 1, s. 23.

Instrument appointing such agent shall be valid if in form of schedule B.

Any partner may execute any bond, &c., without mentioning the names of the other members, &c.

107. Any partner in any unincorporated company, association or copartnership of persons, or their Attorney and Agent authorized as aforesaid, may, under the name and style usually taken by such company, association or copartnership, make any Entry or execute any Bond or other Instrument required by this chapter, without mentioning the name or names of any of the Members or of the other Members of the Company or association or partnership, and such Entry, Bond or Instrument shall nevertheless bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such Member or Partner had been therein mentioned and he had signed the same, and (if it be a Bond or other Instrument under Seal) as if he had thereunto affixed his Seal and had delivered the same as his act and deed ; and the Seal thereunto affixed shall be held to be the Seal of each and every such Member or Partner as aforesaid : And the provisions of this Section shall apply to any Instrument by which any company, association or partnership of persons appoint an Attorney or Agent to act for them under the next preceding section ; Provided always, that the person who under this section makes any Entry or executes any Bond or Instrument on behalf of any company, association or partnership, shall, under the name and style usually taken by them, write his own name with the word " by " or the words " by their Attorney," (as the case may be) thereunto prefixed. 12 V. c. 1, s. 24.

Proviso.

THINGS DONE UNDER REPEALED ACTS.

Regulations to remain in force.

108. All Regulations and Orders made by the Governor in Council, before this chapter came into force under the authority of any Act relating to the Customs, shall remain in force, and shall apply to the duties imposed by and things to be done under

under this Chapter, in so far as they are not inconsistent with it, unless or until revoked or altered by the Governor in Council, notwithstanding the repeal of any such Act as aforesaid. 10, 11 V. c. 31, s. 6.

5 **109.** Neither the repeal of any former Act relating to the Customs, nor any thing in this Chapter contained, shall render necessary any new appointment of the several officers employed in the collection or management of, or in any matter relating to, the Provincial Customs, but such officers shall continue to act in their respective capacities under the provisions of this Chapter, and of the law, until removed, or permitted to resign, by competent authority,—nor shall any such repeal or any thing affect the amount of the salary or allowances attached to any office connected with the management or collection of the Provincial Duties of Customs;—and all bonds given by any such officers and their respective sureties for good conduct or otherwise, before this chapter comes into force, shall remain in full force and effect. 10, 11 V. c. 31, s. 7.

No new appointment of the officers, &c., to be necessary.

Salaries.

Bonds.

20 **110.** All goods warehoused before this Chapter came into force, and which remain so warehoused shall, if taken out of the warehouse for consumption in this Province, be subject to the duties to which such goods would be subject if they were then imported into the Province, and not to any other: and all appointments of warehouses for the warehousing of goods made under the authority of any Act in force before this chapter came into force, shall continue valid as if made under the authority of this chapter; and all bonds given in respect of any goods warehoused or entered to be warehoused before this said time, shall continue in force for the purposes of this chapter 10, 11 V. c. 31, s. 26--part.

Goods warehoused.

Appointment of warehouses.

SCHEDULE.—(22 V. c. 76.)

TABLE OF DUTIES OF CUSTOMS INWARDS.

GOODS PAYING SPECIFIC DUTIES.

Articles.	Duty.	
	\$	cts.
Ale, Beer and Porter, in casks, per gallon.....	0	08
Ale, Beer and Porter, in quart bottles, per dozen bottles.	0	25
Ale, Beer and Porter, in pint bottles, per dozen bottles.	0	12½
And a Duty of 15 per cent. <i>ad valorem</i> on the Bottles containing the same.		
Almonds, Walnuts and Filberts, per lb.....	0	03
Corn Brooms, per dozen.....	0	50
Do. Whisks, per dozen.....	0	15
Cigars, per lb.....	0	80

<i>Articles.</i>	<i>Duty.</i> \$ cts.
Chicory, raw and kiln-dried, per lb.....	0 01
Do., roasted and ground, per lb.....	0 04
Coffee, green, per lb.....	0 01
“ roasted, per lb.....	0 04
“ ground, per lb.....	0 04
Cordials, per gallon.....	1 00
Currants, per lb.....	0 03
Dried Fruits, per lb.....	0 03
Figs, per lb.....	0 03
Ginger, Pimento and Pepper, unground, per lb.....	0 04
Ginger, Pimento and Pepper, ground, per lb.....	0 06
Macaroni and Vermicelli, per lb.....	0 03
Mustard, per lb.....	0 05
Molasses, per gallon.....	0 04
Mace, per lb.....	0 25
Nutmegs, per lb.....	0 25
Nuts not specially named, except Cocoa Nuts, per lb..	0 01
Spirits and Strong Waters, of all sorts, for every gallon of any strength not exceeding the strength of proof by Sykes' Hydrometer, and so in proportion for any greater strength or less quantity than a gallon, viz :	
Brandy, per gallon.....	1 00
Gin, per gallon.....	0 80
Rum, per gallon.....	0 50
Whiskey, per gallon.....	0 18
Spirits and Strong Waters, including Spirits of Wine and Alcohol and not being Brandy, Gin, or Whiskey, per gallon.....	0 70
Spices, unground not otherwise named, per lb.....	0 07
“ ground, “ per lb.....	0 10
Starch, and all preparations of starch, per lb.....	0 05
Soap, not otherwise specified, per 100 lbs.....	1 25
Sugar, refined, whether in loaves or lumps, candied, crushed, powdered or granulated, or in any other form; White Bastard Sugar or other sugar equal to refined in quality, per 100 lbs.	2 50
“ White clayed sugar or yellow bastard sugar, or any kind equal in quality to white clayed sugar or yellow bastard sugar, but not equal to refined sugar, per 100 lbs.....	1 75
“ Brown clayed sugar, Muscovado or raw sugar of any kind not equal in quality to the sugars last named, per 100 lbs.....	1 50
“ raw for refining purposes only, and not within 25 per cent. of the value of the last named sugar, per 100 lbs.....	0 90
Tea, not exceeding in value 18 cents per lb.,—per lb..	0 05
“ exceeding in value 18 cents per lb.,—per lb.....	0 04
Tobacco, manufactured, not exceeding in value 20 cents per lb.,—per lb.....	0 05

Articles

Articles.	Duty. \$ cts.
Tobacco, exceeding 20 and not exceeding in value 40 cents per lb.,—per lb.....	0 07½
“ Over 40 cents in value per lb.,—per lb.....	0 10
Snuff, per lb.....	0 10
Vinegar, per gallon.....	0 06
Wine, in wood, not exceeding in value \$40 per pipe of 126 gallons, per gallon.....	0 20
“ in wood, over \$40 but not exceeding in value \$60 per pipe of 126 gallons, per gallon.....	0 30
“ in wood, over \$60 and not exceeding \$100 in value per pipe of 126 gallons, per gallon.....	0 40
“ in wood, over \$100 in value per pipe of 126 gallons, per gallon.....	0 50
“ in quart bottles, not exceeding \$4 in value per dozen bottles,—per dozen bottles.....	1 50
“ in pint bottles, in proportion, per dozen bottles..	0 75
“ in quart bottles, exceeding \$4 and not exceeding \$8 in value per dozen bottles,—per dozen bottles..	2 00
“ in pint bottles, in proportion, per dozen bottles..	1 00
“ in quart do., exceeding \$8, and not exceeding \$12 in value per dozen bottles,—per dozen bottles..	2 50
“ in pint do., in proportion, per dozen bottles.....	1 25
“ in quart do., exceeding \$12 in value per dozen bottles,—per dozen bottles.....	3 00
“ in pint do., in proportion, per dozen bottles.....	1 50
And a Duty of 15 per cent. <i>ad valorem</i> on the bottles containing such wine.	
Printed, Lithographed or Copper-plate Bills, Bill heads, Cheques, Receipts, Drafts, Posters, Cards, Labels of every description, Advertising Pictures, or Pictorial Show Bills or Cards: For every hundred Cards or Sheets of.....	1 00
Advertising Pamphlets, per hundred.....	1 00

GOODS PAYING FIVE PER CENT.

The following Goods shall be chargeable with a Duty of five per cent. on the value thereof :

- Bolting Cloths ;
- Brass in bars, rods and sheets ;
- Brass or Copper Wire and Wire Cloth ;
- Chain Iron, other than Cables, and not being Horse Chain, Dog Chain, Jack Chain, or other small Chain not exceeding three quarters of an inch ;
- Canada Plates, Tinn'd Plates, Galvanized Iron and Sheet Iron ;
- Copper, in bars, rods, bolts or sheets ;
- Cotton, Candle Wick, Yarn and Warp ;
- Emery ;
- Emery, Glass and Sand Paper ;
- Fishing Nets and Seines ;

Fish

Fish Hooks, Lines and Fish Twines ;
 Gold Beaters' Brim Moulds and Skins ;
 Silk-twist for Hats, Boots and Shoes ;
 Hat plush ;
 Hair, Angola, Goat, Thibet, Horse or Mohair, unmanufactured ;
 Iron, Bar, Rod or Hoop ;
 " Nail and Spike Rod ;
 " Hoop or Tire, for driving wheels of locomotives, bent or
 welded ;
 " Boiler Plate,
 " Railroad Bars ;
 " Rolled Plates ;
 " Plate and Angle, or other Iron, shaped or unshaped, when
 forming part of an Iron Ship imported in pieces.
 " Rivets, for do ;
 " Wire ;
 Lead, in sheet ;
 Sails, ready made ;
 Steel, wrought or cast ;
 Tin, granulated or bar ;
 Tubes and Piping, of copper, brass or iron, when drawn ;
 Varnish, bright and black, for ship-builders, other than Copal
 Carriage, Shellac, Mastic or Japan ;
 Zinc or Spelter, in sheet ;
 Locomotive and Engine Frames, Cranks, Crank Axles, Rail-
 way-car and Locomotive Axles, Piston Rods, Guide and
 Slide Bars, Crank Pins, Connecting Rods, Steamboat and
 Mill Shafts and Cranks forged in the rough.

GOODS PAYING TWENTY PER CENT.

The following Goods shall be chargeable with a Duty of twenty
 per cent. on the value thereof :
 Anchovies, Sardines, and all other Fish preserved in oil ;
 Argentine, Alabetta, or Albata and German Silver manufac-
 tures ;
 Articles embroidered with gold, silver, or other metals ;
 Baskets, and all other Articles made of grass, osier, palm leaf,
 straw, whalebone or willow, not elsewhere specified ;
 Beads of every description ;
 Billiard Tables and Furnishings ;
 Bagatelle Boards and do ;
 Blacking ;
 Bracelets, Braids, Chains, Curls, Ringlets or Head-dresses, of
 any kind composed of hair, or of which hair is a compo-
 nent part ;
 Brooms and Brushes, not elsewhere specified ;
 Cameos and Mosaics, real or imitation, when set in gold, silver
 or other metal ;
 Capers, Pickles, Olives and Sauces of all kinds not elsewhere
 specified ;

Candles

Manufactures of Marble, or Marble more advanced in manufacture than slabs or blocks in the rough.
 “ of *Papier Maché* ;
 “ of Caoutchouc or India Rubber or of Gutta Percha or of which any of these articles forms the principal part ;
 “ of Straw ;
 Patent Medicines and Medicinal Preparations not elsewhere specified ;
 Oil Cloths of whatever material composed ;
 Salad Oils, Table Oils, and Linseed Oils ;
 Opium ;
 Ornaments of Bronze, Alabaster, Terracotta or Composition ;
 Plated and Gilded Ware of all kinds ;
 Playing Cards ;
 Preserved Vegetables, Meats, Poultry, Fish and Game ;
 Railing or Fencing of Iron ;
 Riddles and Sieves ;
 Scales and Weights ;
 Shawls, Thibet wool or filled ;
 Silks, Satins or Velvets and all fabrics of which Silk forms the principal part ;
 Spades, Shovels, Axes, Hoes, Rakes, Forks, and Edge-Tools, Scythes and Snaiths, Bolts, Nuts and Washers ;
 Spikes, Nails, Tacks, Brads and Sprigs ;
 Silk, Woollen, Worsted and Cotton embroideries and tambour work ;
 Silk-twist and Twist composed of Silk and Mohair ;
 Silver and Gold Cloth, Thread, and other articles embroidered with Gold or for embroidering ;
 Skins, Sheep, Calf, Goat, and Chamois, dressed ;
 Soap, perfumed or fancy ;
 Stoves and all other Iron Castings ;
 Toys ;
 Thread Lace and Insertions ;
 Writing Desks, fancy and ornamental Cases and Boxes of whatsoever material ;
 Woollen Goods.

GOODS PAYING TWENTY-FIVE PER CENT.

The following Goods shall be chargeable with a Duty of twenty-five per cent. on the value thereof :

Manufactures of Leather, viz :
 “ Boots and Shoes ;
 “ Harness and Saddlery.

Clothing or Wearing Apparel made by hand or sewing machine.

GOODS

GOODS PAYING FIFTEEN PER CENT.

All articles not hereinbefore enumerated as charged with a specific or *ad valorem* duty, and not exempted from the payment of duty, shall be chargeable with a duty of fifteen per cent. on the value thereof.

TABLE OF FREE GOODS.

Acids, of every description,
 Agricultural Societies—Seeds of all kinds, Farming Utensils
 and Implements of Husbandry, when specially imported
 by, for the encouragement of Agriculture,
 Alum,
 Anatomical preparations,
 Anchors, over 6 cwt. in weight,
 Animals, of all kinds,
 Antiquities, collections of,
 Apparel, wearing, and other personal effects, and implements
 of husbandry, (not merchandise) in actual use of persons
 coming to settle in the Province and accompanying the
 owner.
 Apparel, wearing, of British subjects dying abroad,
 Argol,
 Arms for Army or Navy and Indian Nations, provided the
 duty otherwise payable thereon would be defrayed or borne
 by the Treasury of the United Kingdom, or of this Pro-
 vince.
 Ashes, Pot, Pearl and Soda.
 Bark, Tanners',
 Bark, used solely in dyeing,
 Barley, except Pot and Pearl,
 Barley Meal,
 Beans,
 Bean Meal,
 Bear and Bigg,
 Bear and Bigg Meal,
 Berries, used solely in dyeing,
 Bleaching Powder,
 Books, Printed, — Periodicals and Pamphlets — not being
 British Copyrights, nor Blank, Account, or Copy Books,
 or Books to be written or drawn upon,
 Borax,
 Bottles containing Wine, Spirituous or Fermented Liquors of
 Officers' Mess,
 Brandy imported for do,
 Bran and Shorts,
 Brimstone,
 Bristles,
 Broom Corn,
 Buckwheat,
 Buckwheat Meal,

Bulbs

Bulbs and Roots,
 Bullion,
 Burr Stones, wrought or unwrought, but not bound up into
 mill-stones,
 Butter,
 Coin and Bullion,
 Cabinets of coins,
 Cables, Iron Chain,
 " Tarr'd Hemp,
 " Untarr'd "
 " Grass,
 Carriages of Travellers, and carriages employed in carrying
 merchandise (Hawkers and Circus Troupes excepted),
 Casks, ships' water, in use,
 Caoutchouc or India Rubber, and Gutta Percha, unmanu-
 factured,
 Cement, marine or hydraulic,
 Charitable Societies—donations of clothing for gratuitous
 distribution by,
 Cheese,
 Clothing for Army or Navy or Indian nations, or for gratuitous
 distribution by any Charitable Society.
 Coal,
 Cochineal,
 Coke,
 Commissariat Stores,
 Copperas,
 Corkwood, or the Bark of the Corkwood tree,
 Corn, Indian,
 Cotton and Flax waste,
 Cotton Wool,
 Cream of Tartar in crystals,
 Diamonds and Precious Stones,
 Drugs used solely in dyeing,
 Dye Stuffs, viz: Bark, Berries, Drugs, Nuts, Vegetables, Woods,
 and Extract of Logwood,
 Earths, Clays and Ochres, dry,
 Eggs,
 Felt Hat bodies and Hat Felts,
 Fire Brick,
 Firewood,
 Fish,
 do. Oil, in its crude or natural state,
 do. products of, unmanufactured,
 Flax, Hemp and Tow, undressed,
 Flour,
 Fruits, green,
 Fruits, dried, from the United States only, while the Reciprocity
 Treaty is in force,

Furs,

Furs, Skins, Pelts or Tails undressed, when imported directly from the United Kingdom or British North American Provinces, or from the United States, while the Reciprocity Treaty is in force,

Gems, and Medals,

Gravel,

Grains—Barley and Rye,
Beans and Peas,
Bear and Bigg,
Bran and Shorts,
Buckwheat,
Indian Corn,
Oats,
Wheat,

Meal of above Grains,

Grindstones wrought or unwrought,

Gums and Resins, in a crude state,

Gypsum or Plaster of Paris, ground or unground,

Grease and Scraps,

Hams,

Hemp,

Hides,

Horns,

Household Effects, personal, not merchandise, of subjects of Her Majesty domiciled in Canada but dying abroad,

Indigo,

Inventions and Improvements in the Arts, models of—provided that no article shall be deemed a model which can be fitted up for use,

Junk and Oakum,

Lard,

Lime, the produce of British North American Provinces only, Machinery, models of—provided the same cannot be put to actual use,

Manilla Grass,

Manures of all kinds,

Maps and Charts in sheets, not mounted nor on cloth,

Marble in blocks or slabs unpolished,

Meats, fresh, smoked and salt,

Menageries, horses, cattle, carriages and harnesses of, subject to Regulations by the Governor in Council,

Military Clothing for Her Majesty's Troops or Militia,

Military Stores and Materials for Military Clothing imported for the use of the Provincial Militia, under such restrictions and regulations as may be passed by Governor in Council,

Mosses and sea grass, for upholstery purposes,

Musical Instruments for Military Bands,

Nitre or Saltpetre,

Oakum,

Oil Cake or Linseed Cake,

Oils, cocoa nut, pine and palm—in their crude and natural state,

Old Nets,

Ordnance

Ordnance Stores,
 Ores of all kinds of Metals,
 Osier or Willow, for basket-makers' use,
 Packages of all kinds in which Goods are usually imported,
 except the following, viz : Spirit, wine, oil, beer, cider,
 and other casks for the containing of liquids, baskets of
 every description, trunks, snuff jars, earthenware jars,
 glass jars, bags and barrels containing grain, seeds and
 peas,
 Pig Iron, Pig Lead,
 Pitch and Tar,
 Philosophical Instruments and Apparatus, Books, Globes, Maps
 and Charts :—provided the same be specially imported by
 and for the use of Philosophical Societies, Universities,
 Colleges, Public Schools or Institutes,
 Plants, Shrubs and Trees,
 Provisions for Army or Navy, or Indian Nations,
 Rags,
 Resin and Rosin,
 Rice,
 Sail-cloth,
 Sal Soda,
 Sal Ammonia,
 Salt,
 Seeds of all kinds,
 Ships Blocks,
 Binnacle Lamps,
 Bunting,
 Canvas, Duck,
 Compasses,
 Cordage,
 Dead Eyes,
 Dead Lights,
 Deck Plugs,
 Shackles,
 Sheaves,
 Signal Lamps,
 Travelling Trucks,
 Ship's water-casks in use,
 Silk Hat Felts,
 Soda Ash,
 Specimens of Natural History, Mineralogy or Botany,
 Stone unwrought,
 Slate,
 Statues, Busts and Casts, of Marble, Bronze, Alabaster or
 Plaster of Paris; Paintings and Drawings as works of
 Art; Specimens of Sculpture; Cabinets of Coins, Medals,
 Gems, and all Collections of Antiquities,
 Sulphur or Brimstone,
 Tin and Zinc or Spelter in block or pig,
 Tallow,
 Teasels,

Expressly imported for Ship
 building purposes and by Ship
 Builders or Sail-makers.

Timber

Timber and Lumber of all kinds, round, hewed, sawed, un-
 manufactured in whole or in part,
 Tobacco, unmanufactured,
 Tools and Implements of Trade of persons arriving in Canada
 when accompanied into the Province by the actual settler,
 and brought in by such settler for his own use, and not for
 sale,
 Treenails,
 Turpentine, other than Spirits of Turpentine,
 Type Metal, in blocks or pigs,
 Vegetables—not elsewhere specified,
 Vehicles of Travellers, except those of Hawkers and Pedlars,
 Water Lime,
 Wine, Spirits and fermented Liquors of all kinds, imported for
 any Officers' Mess, and the Packages containing the same,
 Wood for Hoops when not notched,
 Woods of all kinds,
 Wool,
 All Importations for the use of Her Majesty's Army and Navy
 serving in Canada. 22 V. c. 76.

TABLE OF PROHIBITIONS.

The following Articles are prohibited to be imported, under a
 penalty of Fifty Pounds, together with the forfeiture of the
 parcel or package of Goods in which the same may be
 found :

Books and Drawings of an immoral or indecent character ;
 Coin, base or counterfeit. 22 V. c. 76.

SCHEDULE B.—FORMS.

(Schedule B, of 12 V. c. 1, and new forms substituted under s. 31,
 and sub. sect. 3 of this chapter.)

Declaration of the Owner, Consignee or Importer, with the Bill
 of Entry.

I, the undersigned, _____, hereby solemnly declare
 that the within Bill of Entry contains a true account of the
 goods, wares and merchandize imported in the _____
 whereof _____ is Master, (or by the _____ Railroad,) _____
 from _____, and that the prices of the goods, as mentioned in the
 Invoice herewith produced, exhibit the actual cost or fair mar-
 ket value of the said goods at the time of exportation, and that
 no discounts for cash are made in the said invoice prices.

Signed at _____, on the _____ day of _____, 185 _____,
 in presence of *

* To be signed either in the presence of the Attorney making the entry, or a
 Justice of the Peace or a Consul.

Oath

Oath or affirmation of an Agent, Consignee, or Importer.

Province of Canada,
Port of

I, _____, do solemnly and truly swear (or affirm) that the Invoice now presented by me to the Collector of Customs for the Port of _____ is the true and only Invoice by me received of all the goods, wares, and merchandize imported in the _____, whereof _____ is Master, from _____, for account of any person whomsoever, for whom I am authorized to enter the same; that nothing has been on my part, nor to my knowledge, on the part of any other person, concealed or suppressed, whereby Her Majesty the Queen may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandize; and I do further solemnly and truly swear (or affirm) that, to the best of my knowledge and belief, _____ are the owner of the goods, wares, and merchandize mentioned in the said Bill of Entry hereunto annexed, as therein respectively stated; that the Invoice now produced by me exhibit the actual cost or fair market value, at the time when the same were thence exported to this Province, in the markets in _____ of the said goods, wares and merchandize: So help me God.

Sworn (or affirmed) before me, this _____ day of _____, 185 _____

Collector,
(or as the case may be.)

Oath or Affirmation of an Owner whose Goods have been purchased.

Province of Canada,
Port of

I, _____, do solemnly and truly swear (or affirm) that the Bill of Entry now delivered by me to the Collector of Customs for the Port of _____, contains a just and true account of all the goods, wares and merchandize imported by, or consigned to _____ in the _____, whereof _____ is Master, from _____, that the Invoice, which I now produce, contain a just and faithful account of the actual cost of the said goods, wares and merchandize; and I do further solemnly and truly swear (or affirm) that I have not, in the said Bill of Entry or Invoice, concealed or suppressed any thing whereby Her Majesty the Queen may be defrauded of any part of

of the duty lawfully due on the said goods, wares and merchandize : So help me God.

Sworn (or affirmed) before me, this day of , 185 .

Collector,
(or as the case may be.)

Oath or affirmation of an Owner when the Goods have not been actually purchased.

Province of Canada,
Port of

I, , do solemnly and truly swear (or affirm) that the Bill of Entry now delivered by me to the Collector of Customs for the Port of , contains a just and true Account of all the goods, wares, and merchandize imported by, or consigned to in the whereof is Master, from ; that the said goods wares, and merchandize, were not actually bought by or by Agent, in the ordinary mode of bargain and sale ; but that, nevertheless, the Invoice which I now produce contain a just and a faithful valuation of the same, at their fair market value, in the principal markets in at the time they were so exported. And I do further solemnly and truly swear (or affirm) that I have not in the said Bill of Entry or Invoice concealed or suppressed any thing whereby Her Majesty the Queen may be defrauded of any part of the duty lawfully due on the said goods, wares and merchandize : So help me God.

Sworn (or affirmed) before me, this day of , 185 .

Collector,
(or as the case may be.)

Oath or Affirmation of an Owner, Consignee, Importer or Agent, on entering Merchandize, without Invoice.

I, , do solemnly and truly swear (or affirm) that the Bill of Entry now delivered by me to the Collector of Customs for the Port of contains a just and true Account of all the goods, wares and merchandize imported for me or on my account, or on account of any person for whom I am authorized to enter the same, in the whereof is Master, from ; that the Bill of Lading now produced by me is the true, genuine, and only Bill of Lading by me received of the said goods, wares and merchandize ; and that I have not received, and do not know of any Invoice, or other account whatever having been received of the said goods,

goods, wares and merchandize ; I do further swear (*or affirm*) that if I hereafter discover any other or greater quantity of goods, wares and merchandize, than is contained in the entry aforesaid, or shall receive any Invoice of the whole or any part thereof, I will immediately report the same to the Collector of this Port ; I also swear (*or affirm*) that nothing has been concealed or suppressed in the entry aforesaid whereby to avoid the just payment of the duties imposed by the laws of this Province of Canada ; and that all matters are justly and truly expressed therein according to the best of my knowledge and belief : So help me God.

Sworn (*or affirmed*) before me, this day of , 185 .

Collector,
(*or as the case may be.*)

OATH of an OWNER residing out of this Province, when there is no Owner in the Province who can attest the Invoice, or when the owner is the manufacturer or concerned in the manufacture of the goods.

I, (*name*) do solemnly and truly swear (*or affirm*) that the Invoice hereunto annexed and signed by me is the true and only Invoice of the goods, wares and merchandize therein mentioned shipped, (*or intended to be shipped*) by me (*or by, name of firm*) in the whereof is Master, (*vary these words as the case may require,*) and consigned to at , in the Province of Canada ; that I have not sent and will not send, nor do I know or believe in the existence of any other Invoice of the said goods, wares and merchandize ; that the said Invoice contains a just and faithful valuation of the said goods, wares and merchandize at their fair market cash value, in the principal markets in (*insert the name of the country whence the goods, were exported directly to this Province, or use such other words as will meet the facts*) at the time when they were so exported, (*or when the same were so shipped, or at this time,*) and that the same were not actually purchased by me (*or us*) or on my (*or our*) account, or (*that the said Invoice contains a just and faithful account of the actual cost of the said goods, wares and merchandize and of their fair market value in the principal markets in (insert the name of the country whence the goods were directly exported to this Province, or use such other words as will meet the facts)*) at the time when the same were purchased for my (*or our*) account ; and that nothing has been concealed or suppressed in the said Invoice, or otherwise, whereby Her Majesty the Queen may be defrauded of any part of the duty lawfully to become due

due in Canada on the said goods, wares and merchandize.
So help me God.

(Signature.)

Sworn (or affirmed) before me, this day of 185 .

(Signature,)

Collector.

or

British Consul at

(or as the case may be.)

The wording of any of these Oaths or Affirmations may be changed to suit the circumstances of the case, and the Oath or Affirmation will be sufficient, provided the requisite facts are distinctly stated and sworn to or affirmed. 12 V. c. 1,—Schedule corrected by 18 V. c. 85, s. 3.

All the foregoing forms in this Schedule may be altered, or new forms substituted under 22 V. c. 76, s. 5.

APPOINTMENT OF AN ATTORNEY OR AGENT. *

Province of Canada.

Know all men by these presents, that *we* (*A. B. and Co.*) have appointed and do hereby appoint *C. D.* of *(residence, profession, &c.)* to be *our* true and lawful Attorney and Agent, for *us* and in *our* name to transact all business which *we* may have with the Collector at the Port of *(place)*, or relating to the Department of the Customs at the said Port, and to execute, sign, seal and deliver for *us* and in *our* name all Bonds, Entries and other Instruments in writing relating to any such Business as aforesaid, hereby ratifying and confirming all that *our* said Attorney and Agent shall do in the behalf aforesaid.

In witness whereof, *we* have signed these presents, and sealed and delivered the same as *our* act and deed, at *(place)*, in the said Province, this day of , one thousand eight hundred and

A. B. & Co. [L. S.]

By

one of the partners in the said firm.

In presence of E. F.
and G. H.

12 V. c. 1,—Schedule.

CAP. XVIII.

An Act respecting Reciprocity with the United States,
as to Customs Duties.

Preamble. **W**HEREAS it is expedient to provide for giving effect, as regards this Province, to the Treaty between Her Majesty and the United States of America, signed on the Fifth day of June, one thousand eight hundred and fifty-four : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Articles enumerated, being the growth and produce of the U. S. to be admitted free. **1.** The Articles enumerated in the Schedule annexed to this chapter, being the growth and produce of the said United States, shall be admitted into this Province free of duty so long as the said Treaty remains in force ;—But if said United States do at any time under the terms of the said Treaty, suspend the operation of the third Article thereof, so far as this Province is affected thereby, then the Governor of this Province may, if he sees fit, declare such suspension by Proclamation, after which the exemption from duty under this Section shall cease while such suspension continues,—but the Governor may again, whenever such suspension ceases, declare the same by Proclamation, from and after which such exemption shall again take effect. 18 V. c. 1, s. 1.

Treaty may be suspended.

If treaty is suspended, articles to be subject to duty.

2. Whenever the Governor declares the said Treaty suspended, then, while such suspension continues, the several Articles mentioned in the Schedule, being the growth and produce of the said United States, shall be respectively subject to the duties imposed on like articles by any Act then in force, but if no duty be so imposed, then they shall be admitted free. 22 V. c. 76, s. 4—part.

Governor in Council may make orders for carrying out the treaty.

3. The Governor in Council may by any Order or Orders to be made for that purpose, do any thing necessary to be done on the part of this Province to give full effect to the said Treaty, and any such Order shall have the same effect as if the object thereof were expressly provided for by this chapter. 18 V. c. 1, s. 2.

SCHEDULE.

Grain, Flour and Breadstuffs of all kinds,
Animals of all kinds,
Fresh, smoked and salted meats,
Cotton-wool, seeds and vegetables,
Undried fruits, dried fruits,
Fish of all kinds,
Products of fish and of all other creatures living in the water,
Poultry, eggs,

Hides,

Hides, furs, skins or tails undressed,
 Stone or marble in its crude or unwrought state,
 Slate,
 Butter, cheese, tallow,
 Lard, horns, manures,
 Ores of metals of all kinds,
 Coal,
 Pitch, tar, turpentine, ashes,
 Timber and Lumber of all kinds, round, hewed, sawed, un-
 manufactured in whole or in part,
 Firewood,
 Plants, shrubs and trees,
 Pelts, wool,
 Fish oil,
 Rice, broom-corn and bark,
 Gypsum, ground or unground,
 Hewn or wrought or unwrought burr or grindstones,
 Dye-stuffs,
 Flax, hemp and tow unmanufactured,
 Unmanufactured tobacco,
 Rags. 18 V. c. 1.—*Schedule*.

CAP. XIX.

An Act respecting Duties of Excise, on Distillers and
Brewers, and Spirits and Beer made by them.

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

INTERPRETATION.

**Interpreta-
tion.** 1. The word "Spirits," wherever it occurs in this chap-
ter, means and includes all Spirits, Strong Waters and Spirit-
uous Liquors of any kind ; (12 V. c. 14, s. 5.) And the words
Beer, or other Malt Liquor, whenever they occur in this chapter,
mean and include, beer, ale, porter, lager beer or other malt
liquor of any kind. 22 V. c. 76, s. 13.

LICENSES, BONDS.

**None but per-
sons licensed
under this Act
to act as dis-
tillers.** 2. No person other than a person licensed in the manner
hereinafter provided, shall act as a Distiller in this Province, or
shall distil, brew, manufacture, rectify, or make therein any
spirits, from malt, grain, potatoes, mangel-wurzel, or other vege-
table, or from molasses, sugar, or other saccharine matter, under
a penalty of ten pounds, for each day on which any such
offence is committed, and on pain also of forfeiting, over
and above the penalty aforesaid, all spirits, distilled, brewed,
manufactured or made, in contravention to this chapter, and
every still, mash-tub, fermenting-tun, or other vessel, machi-
nery, or utensil of any kind used by him, or in his possession
or on his premises : 9 V. c. 2, s. 2.

Penalty.

**What consti-
tutes a distil-
lery.** 2. And for the avoidance of doubt, it is hereby declared
that any establishment or place used for the rectifying of spirits
by any process, is a distillery within the meaning of this
Chapter, and must be licensed under the penalties herein
provided. 22 V. c. 76, s. 11.

**None but li-
censed persons
to act as Brew-
ers.** 3. No person, other than a person licensed as hereinafter
mentioned, shall brew or make any beer, or other malt liquor
of any kind, or act as a brewer in this Province, under
a penalty of ten pounds for each day on which such offence
is committed, and on pain also of forfeiting every mash-
tub, fermenting vessel, machine or utensil of any kind used
by him as a brewer, or for making any such beer or malt liquor
as aforesaid, or adapted for making the same and being in his
possession or on his premises. 22 V. c. 76, s. 13—part.

Penalty.

Forfeiture.

4. The Revenue Inspector for any Revenue Division shall issue a License to act as a Distiller, or as a Brewer, in some certain premises, situate at some certain place within such Revenue Division, and to be described in the License, to any person or partnership of persons requiring the same, and being a subject or subjects of Her Majesty resident or having his or their place of business in such Revenue Division, and having previously complied with the requirements of this chapter in that behalf;--And each such License shall remain in force until the fifth day of January, inclusive, next after the date thereof, and no longer :

District Inspector to issue licenses.

Duration of license.

2. The party in whose favor a License to act as a Distiller, is granted shall, on requiring such License, pay to the Revenue Inspector issuing the same, the sum of ten pounds, as a duty to Her Majesty upon such License ; 9 V. c. 2, s. 3, *as amended by 22 V. c. 76, s. 13.*

Duty thereon as a distiller.

3. The party in whose favor a License to act as a Brewer is granted, shall, on requiring such License, pay to the Revenue Inspector issuing the same, the sum of ten dollars as a duty to Her Majesty on such License ; 22 V. c. 76, s. 13—*part.*

As a brewer.

4. No License to act as a Distiller, or as a Brewer, shall be granted to any party, except on a written requisition addressed to the Revenue Inspector, and signed by the party requiring such License, or if it be required by a partnership, then by one of the partners. 9 V. c. 2, s. 4, *as amended by 22 V. c. 76, s. 13.*

No license granted but upon a written requisition.

5. No such License shall be granted to any party, until such party has, jointly and severally with two good and sufficient sureties, to the satisfaction of the Revenue Inspector issuing the License, entered into a bond to Her Majesty, Her Heirs and Successors in a sum equal to double the amount at which the Revenue Inspector estimates the duties to be paid by the party to whom the License is granted, during three-fourths of the time it is to remain in force ;--And such bond shall be taken before the said Revenue Inspector, and shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties, which the party to whom the License is to be granted will become liable to render or pay, under the provisions of this Chapter, and that such party will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever ;--And the said bond shall be kept by the Revenue Inspector. 9 V. c. 2, s. 6, *as amended by 22 V. c. 76, s. 13.*

Parties obtaining license to give bond to Her Majesty.

How taken and conditions.

6. The bond aforesaid shall remain in force so long as any duties upon any spirits distilled, manufactured or made, or upon any beer or other malt liquor, brewed, manufactured or made, while the License to which the bond relates is in force,

During what time the bond shall remain in force.

force, or any penalty incurred during the said time by any breach of the conditions of the bond, remain due and unpaid by the party to whom such License was granted :

New license, a new bond. 2. But whenever any new License is granted to any party, a new bond shall be likewise entered into with reference to such new License ;

When a surety dies, &c., new bond to be given. 3. And a new bond shall also be given, whenever, during the period for which the License to which it relates is in force, either of the sureties dies, becomes insolvent, or removes permanently out of the Province ; in any of which cases the License shall be void from the time the party is required by the Revenue Inspector to enter into a new bond until the time when such new bond is given, during which time the party neglecting to enter into such new bond shall be held to be without a License. 9 V. c. 2, s. 7, *as amended by 22 V. c. 18* 76, s. 13.

The name and calling of distillers and brewers to be inscribed in front of the building. 7. Every party licensed as a Distiller, or as a Brewer, shall have his name and calling as such inscribed in legible characters, and exposed on some conspicuous part of the front of the building or premises in which such calling is exercised, under a penalty of five pounds, for each day on which he exercises such calling without complying with the requirements of this section. 9 V. c. 2, s. 8, *as amended by 22 V. c. 76, s. 13.*

DUTIES, AND HOW ASCERTAINED, &C.

Duty per gallon on all spirits made in the province. 8. All such spirits, as aforesaid, lawfully distilled, manufactured or made within this Province, or which having been so distilled, manufactured or made and warehoused, are taken out of warehouse for consumption, shall be respectively subject to the duty to Her Majesty hereinafter mentioned, that is to say :—On every gallon, wine measure, of spirits of any kind, not exceeding the strength of proof by Sykes' Hydrometer, and so in proportion for any greater strength than the strength of proof, and for any greater or less quantity than a gallon, six cents,—And such duty shall be computed and charged upon the quantity of spirits to be ascertained after the first process of rectification, and shall be paid by the party distilling, manufacturing or making such spirits, to the Revenue Inspector, in the manner hereinafter mentioned :

As to re-distillation. 2. But such duty shall not be again payable on any spirits which, having paid duty in this Province, or having been made therein before the eighteenth day of May, one thousand eight hundred and forty-nine, are re-distilled by a licensed Distiller, for the purpose of rectification or otherwise. 9 V. c. 2, s. 5, *as amended by 12 V. c. 14, s. 2,—and 19, 20 V. c. 42, s. 1,—and 22 V. c. 76, s. 10.*

9. There shall also be, paid to Her Majesty a duty of one cent for each gallon, wine measure, of beer or other malt liquor, brewed or made in this Province, and such duty shall be payable by the brewer or maker thereof. 22 V. c. 76, s. 13--part.

On all malt liquor made in the province.

10. The duties hereby imposed shall be duties within the meaning of the *Act respecting the Collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants*, and all sums of money paid or recovered either for such duties or for any penalty or forfeiture under this Chapter, and belonging to Her Majesty, shall be paid to the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province. 9 V. c. 2, s. 24.

Duties hereby imposed to be within the meaning of chap. 16.

How accounted for.

11. Every person, or party licensed as a Distiller, or as a Brewer, shall keep a book or books in a form to be furnished from time to time by the Revenue Inspector, and to be open at all seasonable hours to his inspection, wherein such Distiller or Brewer shall enter, from day to day,—the quantities of grain or other vegetable production, or other substance, put by him into the mash-tub, or otherwise used by him for the purpose of producing beer or wash, or consumed by him in any way for the purpose of producing spirits or otherwise disposed of,—and also the quantity of spirits, beer or other malt liquor, by him distilled, manufactured or made, shewing the quantity produced at each separate time, if there have been any distinct set or sets of operations by reason of which duties have become payable ;—And for any wilful false entry, or any wilful neglect to make any entry hereby required, the Distiller or Brewer shall incur a penalty of fifty pounds, and the Revenue Inspector may at all times demand to be shown all the stock of such grain, vegetable production, or other substance aforesaid, then on the premises mentioned in the License. 9 V. c. 2, s. 9, as amended by 22 V. 76, s. 13.

Certain books to be kept by the distillers, and open to the district Inspector.

Penalty.

12. Every party licensed to act as a Distiller or as a Brewer, and acting as such, shall, within ten days after the first day, and within ten days after the fifteenth day of each of the months in each year, render to the Revenue Inspector a just and true account, in writing, extracted from the books to be kept for such purpose as aforesaid, and signed by such party or his agent or chief clerk showing :

Distiller or brewer to render to Revenue Inspector a just account in writing extracted from his books.

1. The total quantity, in gallons, of each kind of spirits, (with the strength thereof,) on which a duty is payable, by him distilled, manufactured or made ;

Total quantity gallons spirits, dutiable.

2. Or the total quantity in gallons of each kind of beer or other malt liquor, by him brewed, manufactured or made,

Total quantity gallons beer &c.

during

during the period for which no account has been previously entered ;

Quantity at each separate time. 3. The quantity produced at each separate time, if there have been any distinct set or sets of operations by reason of each of which duty became payable ;

Quantities of each kind of grain, &c., used. 4. The quantities of each kind of grain, or other vegetable production or substance used by such party in his business as a Distiller or Brewer ;

Account to be attested. 5. And such account shall be attested by the person signing the same by an affidavit in the following form :

Affidavit attesting truth of the account. " I, _____, do solemnly swear, that the account above written, to which I have also subscribed my name, contains a true account of the total quantity of every kind of spirits or strong waters or spirituous liquors, distilled, manufactured or made (or of every kind of beer, ale, porter, lager beer or other malt liquor, brewed, manufactured or made) by me (or by _____ as the case may be,) within the time mentioned in the same account, and on which duty is payable, and of the quantities of each kind respectively, (if the affidavit relate to spirits, say _____ and the strength thereof,) and also of the quantities produced at each separate time therein mentioned by a distinct set of operations, and also of the quantities of all grain or other vegetable production or substance consumed by me, (or by the said _____) during the said time : So help me God."

Inspector may ask questions upon the account, and require the answers to be sworn to. 6. Such affidavit shall be made before some Justice of the Peace, and shall be delivered with such account to the Revenue Inspector, who may put to the person making it such questions as are necessary to the elucidation and full understanding of the account, and for ascertaining whether such person has had the means of knowing the same to be correct, and may require his answers to be sworn to before some Justice of the Peace, and may reject the account if such account or the answers given are insufficient, according to the true intent and meaning of this Chapter ; 9 V. c. 2. s. 10, as amended by 22 V. c. 76, s. 13.

False statement to be wilful and corrupt perjury. 7. And any wilfully false statement in any affidavit required by this chapter, shall be deemed wilful and corrupt perjury, and punishable accordingly. 9 V. c. 2, s. 11, as amended by 22 V. c. 76, s. 13.

Duties to be paid when the said account is rendered. 13. Every licensed Distiller or Brewer shall, at the time of rendering such account as aforesaid to the Revenue Inspector, pay over to that Officer the amount of duties which by such account appear to be payable ;—And if any licensed Distiller or

or Brewer refuses or neglects to render such account or to pay over such duties as aforesaid, according to the true intent and meaning of this chapter, he shall, by such refusal or neglect in either case, incur a penalty of twenty pounds;—And the Revenue Inspector may also, at his discretion, cause a notice to be inserted in the *Canada Gazette*, declaring the party so refusing or neglecting to have forfeited his License as a Distiller or Brewer, and such License shall be forfeited accordingly, and shall be null and void from and after the date of such notice, nor shall any new License be granted to the defaulter until after the debt and penalty aforesaid have been paid and satisfied. 9 V. c. 2, s. 13, as amended by 22 V. c. 76, s. 13.

Penalty.

License forfeited.

14. Any oath directed by this chapter to be taken before a Justice of the Peace, may hereafter be taken before a Revenue Inspector, with the same legal effect and under the same penalties for any wilfully false statement therein. 22 V. c. 76, s. 12.

Oath may be taken before a Revenue Inspector.

WAREHOUSING SPIRITS, &C.

15. Any Spirits or any Beer, or other malt liquor, subject to duty under this chapter, may be deposited in any duly established Customs Warehouse in like manner, and under like regulations so far as they may be found applicable, as articles imported into the Province, upon the payment of five per centum on the duty to which the same would be subject if not so warehoused, which percentage shall always be paid to the Revenue Inspector before such warehousing shall be allowed; and in like manner such Spirits may be exported without further payment of duty, or may be taken out of Warehouse for consumption, on payment of the duty thereon, less the five per centum aforesaid. 12 V. c. 14, s. 3, as amended by 22 V. c. 76, s. 13.

Spirits made in Canada may be warehoused on certain conditions.

16. The Governor in Council may make such regulations as to him seem necessary for adapting any regulation then in force relative to the warehousing of goods liable to Duties of Customs, to the warehousing of Spirits, Beer or other malt liquor, under this chapter, or may make such other regulations touching the warehousing of such Spirits, Beer or other malt liquor, as to him seem meet; and all the provisions of chapter (10, 11 V. c. 31) of this Title, shall apply to regulations made under this chapter. 12 V. c. 14, s. 4, as amended by 22 V. c. 76, s. 13.

Governor in Council may make regulations for the warehousing of spirits.

POWERS OF INSPECTORS, &C.

17. The Officer referred to in the Act passed in the ninth year of Her Majesty's Reign, chapter two, as "District Inspector," shall be known and designated as the "Revenue Inspector" of the District, County or other place in which he shall be appointed or directed to act;—but his powers and duties shall not

District Inspector to be known as Revenue Inspector.

not be in any way affected by this provision, nor shall it affect any suit, proceeding, document, or matter whatever in which he may have been designated as District Inspector :

- Revenue Division. 2. And every District, County or place for which a Revenue Inspector is appointed or directed to act, shall be known as a Revenue Division. 22 V. c. 76, s. 13—*part.* 5
- District Inspector to have free access to premises of Distillers, and to books and accounts. 18. Every licensed Distiller or Brewer shall, on being thereunto required by the Revenue Inspector, produce to that Officer at any seasonable time and hour, and shall allow him to take copies and extracts from such books and accounts as are requisite to enable him to verify any account rendered as aforesaid,—and shall, at all times and hours, allow the Inspector, or any person employed by him, free access to the buildings and premises in which such Distiller or Brewer exercises his calling as such, and more especially at all times when he is performing any operation therein by reason of which duty may become payable,—under a penalty of twenty pounds, for each neglect or refusal to comply with the requirements of this section ; 15
- Penalty. 2. Except that no Revenue Inspector shall require any such book or account to be produced to him elsewhere than at the place where such Distiller or Brewer carries on his business as such, or shall require admittance between the hours of sun-set and sun-rise, except when the Distiller or Brewer is at work, or the Inspector is accompanied by a Peace Officer. 9 V. c. 2, s. 12, *as amended by* 22 V. c. 76, s. 13. 25
- Exception. 19. No Distiller or Brewer shall work his Distillery or Brewery at any time unless he has given at least ten days previous notice in writing to the Revenue Inspector, of his intention to work the same at such time,—and such notice shall not extend to a longer period than thirty days from the delivery thereof to the Revenue Inspector : 30
- What shall be deemed a working of the distillery. 2. Any use made of any still, mash-tub or fermenting-tun, for the purpose of distillation, mashing, or fermentation, shall be deemed to be a working of the distillery and an acting as a Distiller or Brewer within the meaning of this chapter ; 35
- Penalty for working without notice. 3. And if any Distiller or Brewer works his Distillery or Brewery at any time for which he has not given notice of his intention to work the same, he shall, for each day on which he so works such Distillery or Brewery, incur the same penalty and forfeiture as if he had worked the same without a License. 9 V. c. 2, s. 15, *as amended by* 22 V. c. 76, s. 13. 40
- Distiller or Brewer to furnish means for the proper examination 20. Every licensed Distiller or Brewer shall at all times furnish the Revenue Inspector or his Assistant with lights, ladders, measures, and other things requisite to enable him properly to examine, inspect, measure, or gauge any still, auxiliary vessel, mash-tub, 45

mash-tub, fermenting-tun, or other vessel, or any grain, vegetable, or other substance or matter as aforesaid, on the premises of his premises,—
of such Distiller or Brewer, or any part of such premises,—
under a penalty of twenty pounds, for any refusal or neglect Penalty for refusal or neglect.
to comply with the requirements of this section. 9 V. c. 2, s. 17, as amended by 22 V. c. 76, s. 13.

21. The Revenue Inspector, and any person or persons acting under him or by his directions, may, at any hour of the day or night, enter any premises referred to in any License granted under this chapter, and may make all necessary inquiries and searches therein, for the purpose of ensuring the execution of this chapter according to its true intent and meaning, subject to the restrictions hereinbefore mentioned. 9 V. c. 2, s. 18, as amended by 22 V. c. 76, s. 13.
Inspectors to have access to the premises of the Distiller at any hour.

22. The Revenue Inspector, or any person or persons acting under him or by his directions, having first obtained a Search Warrant for that purpose from some Justice of the Peace, who may grant the same on affidavit made before him, and to his satisfaction, and stating reasonable grounds for the issuing thereof, may, at any hour between sun-rise and sun-set, enter into and search any house, building or place, mentioned in such Search Warrant as being one in which affidavit has been made of reasonable cause to suppose that an unlicensed still, auxiliary vessel, mash-tub, fermenting-tun, or other vessel, is illegally in use, or the provisions of this chapter otherwise contravened. 9 V. c. 2, s. 19, as amended by 22 V. c. 76, s. 13.
Inspector, by search warrant, may enter and search any house between sun-rise and sun-set.

RECOVERY OF DUTIES AND PENALTIES.

23. Any duties payable under this chapter, shall be recoverable at any time after the same ought to have been accounted for and paid, whether an account of the quantity of spirits, as aforesaid, on which they are payable, has or has not been rendered as aforesaid; but in the case last mentioned, the party by whom such duties are payable, shall incur a penalty equal to three times the amount of such duties, for his neglect to render the accounts relative to the same as hereinbefore required, in addition to any other penalty incurred by him by such neglect; and all such duties shall be recoverable with full costs of suit in favour of Her Majesty. 9 V. c. 2, s. 14.
Duties recoverable although account be not rendered. Penalty.

24. The payment of any penalty imposed by this chapter, shall not discharge the party paying the same, or his sureties, from the obligation to pay all duties due by such party, and the same shall be paid and may be recovered as if such penalty had not been paid or incurred; and all such duties shall be recoverable, with full costs of suit, as a debt due to Her Majesty, in any Court of competent civil jurisdiction:
Penalty not to discharge party from paying duties. Costs of suit.

Certain property made specially liable.

2. And (without any prejudice to the liability of any other property of the debtor or his sureties,) the stock in trade, stills, mash-tubs, fermenting-tuns, and other machinery and utensils, whether so fixed as to form part of the real or immoveable property or not, which are on the premises mentioned in the License at the time any such duties become due, shall be liable for such duties and for any penalty incurred by the Distiller or Brewer on whose premises they are, by special privilege and lien in favour of the Crown, and may be seized and sold in satisfaction of the same under any Warrant of Distress or Writ of Execution, and removed by the purchaser, to whomsoever the same might otherwise belong, or into or in whose hands or possession soever the same have passed or are found, and notwithstanding any claim to the same, or privilege or lien thereon in favour of any other person or party whomsoever; And if the same be forfeited under the provisions of this chapter for any contravention thereof, they may be seized by the Revenue Inspector, or any person acting by his authority, at any time after the commission of the offence for which they are forfeited, and marked, detained or secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender, and if condemned, they shall be removed or sold, or otherwise dealt with in such manner as the Governor in Council shall direct. 9 V. c. 2, s. 16, *as amended by* 22 V. c. 76, s. 13.

If the same be forfeited.

Penalties, how recoverable.

25. The penalty or forfeiture incurred for any offence against the provisions of this chapter, may be sued for and recovered before any two or more Justices of the Peace, having jurisdiction in the place where the offence was committed, on the oath of two credible witnesses;---And any such penalty may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under the warrant of such Justice or Justices; or the said Justice or Justices may, in their discretion, commit the offender to the Common Gaol, until the penalty, with the costs of the prosecution, shall be paid;---And one moiety of every such pecuniary penalty or forfeiture shall belong to Her Majesty, and shall be paid and applied in the manner hereinafter provided with regard to other pecuniary penalties, and the other moiety shall belong to the person suing for the same. 9 V. c. 2, s. 20, *as extended by* 22 V. c. 76, s. 13.

And how levied, or enforced, if not paid.

All penalties and forfeitures may be recovered in civil courts of competent jurisdiction.

26. Provided always that any pecuniary penalty or any forfeiture imposed by this chapter, whatever be the amount thereof, may be sued for and recovered with costs, on the oath of any one competent witness in any Court having civil jurisdiction to the amount of such penalty or forfeiture, by Her Majesty's Attorney General, or by any other person or officer thereunto authorized by the proper authority;---And one moiety of such penalty or forfeiture shall belong to the Revenue Inspector, or other person or officer suing for the same, and the other moiety shall belong to Her Majesty, and shall be paid over to the Revenue Inspector of the Revenue Division where the offence was

Distribution of penalties.

was committed, and shall be by him accounted for and paid over as other public moneys coming into his hands: But if any such penalty or forfeiture be sued for in the name of the Crown only, in such case (as also in the like cases in prosecutions Exception. 9 V. c. 2, s. 21, as amended by 22 V. c. 76, s. 13.)

27. Any Revenue Inspector, Officer of the Customs, or other person employed in the collection of the Revenue, shall be a competent witness in any prosecution or suit under this chapter, provided he be not himself the prosecutor or a party to such suit, although he has or believes himself to have some expectation of advantage to himself from the successful termination of such prosecution or suit; but the credibility of his testimony shall be left to the Court, Jury, Justice or Justices before whom the prosecution or suit is brought. 9 V. c. 2, s. 22, as amended by 22 V. c. 76, s. 13.
Who may be a competent witness in suits, &c., under this Act.

28. No person making any seizure under this chapter, shall be liable to damages if such seizure be declared not valid, provided the Court, Justice or Justices declaring it not valid, certify that there was probable cause for making it. 9 V. c. 2, s. 22, as amended by 22 V. c. 76, s. 13.
Provision as to invalid seizures for which there was probable cause.

29. Any person refusing or neglecting to appear before any Justice or Justices, or any Court, to give evidence, when summoned, concerning any alleged offence against the provisions of this Chapter, shall, for such refusal or neglect, incur a penalty of five pounds, to be recovered in the manner hereinbefore provided for the recovery of other penalties of like amount. 9 V. c. 2, s. 23.
Penalty on persons refusing to give evidence.

C A P . X X .

An Act respecting the Provincial Duty on Tavern
Keepers.

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

- Duty on licenses to hotels, &c., to be paid to Her Majesty.**
- 1.** There shall be paid to Her Majesty, on each License issued after the seventh day of August, one thousand eight hundred and fifty-eight, to sell spirituous liquors to be drunk upon the premises, in any hotel, tavern, house, vessel or place,—a duty of twelve dollars if such place be within the Municipal limits of any City,—a duty of ten dollars, if the same be within the Municipal limits of any incorporated Town,—and a duty of five dollars, if the same be not within the limits of any such City or Town, or the License be for a vessel :
- Duty to be paid before issuing of the license.**
- 2.** Such duty shall be paid to the Revenue Inspector or Municipal Officer issuing or delivering the License, before it shall be issued or delivered, and shall be, over and above all other duties or sums, payable thereon ;
- License to be of no effect till duty is paid.**
- 3.** And no such License shall be of any effect unless such duty be paid, but the party holding it shall be held to be unlicensed, and be liable to all the penalties imposed by any Act or by any By-law on persons selling spirituous liquors without License. 22 V. c. 76, s. 14—*part.*
- Duty to be paid over to the Receiver General.**
- 2.** The sums received for such duty by any Municipal Officer shall be by him accounted for and paid over, on demand, to the Receiver General, deducting four per cent. for his trouble in collecting the same, and if not so paid over, shall be a debt due to the Crown by such Municipal Officer, and may be recovered from him with costs, in any way in which debts due to the Crown may be recovered ;—And such Municipal Officer shall, as regards such duty, be held to be an Officer employed in the Collection of the Revenue and liable accordingly, and evidence of his having issued or delivered any such license shall be held to be evidence of his having received the duty hereby imposed thereon. 22 V. c. 76, s. 14—*part.*
- If not paid over, may be recovered with costs.**
- 3.** The Chamberlain, Treasurer, Clerk or other Officer of any Municipality, having the requisite official documents or information in his custody, shall at all times, on demand, furnish to the Revenue Inspector for the District, County or Revenue Division in which such Municipality lies, lists of all such Licenses as aforesaid issued after the said seventh day of August, one thousand eight hundred and fifty-eight, in or by
- Chamberlain, &c., of municipality to furnish lists of licenses, &c.**

by authority of such Municipality, and of the persons to whom, and the houses, vessels or places for which they were respectively granted, under a penalty of fifty pounds for any refusal to furnish such lists. 22 V. c. 76, s. 14--part. Penalty for refusal.

5 4. The sums received for duties under this chapter shall form part of the Consolidated Revenue Fund of this Province, and shall be duties within the meaning of the *Act respecting the collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants.* 22 V. c. 76, s. 14--part. Duty to form part of the consolidated revenue fund, and to the duties under c. 16.

C A P . X X I .

An Act respecting the Duty on Bank-notes.

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

Certain statements to be made periodically to the Receiver General by banks and bankers.

1. Every Bank incorporated, chartered or recognized by the Legislature of this Province, and every Company, person or party lawfully acting as a Banker within this Province, shall, on the fifteenth day of May, and the fifteenth day of November, in each year, deliver to the Receiver General a statement shewing the total amount in nominal value, of the Bank-Notes issued by such Bank, Company, Person or Party, and in circulation at the end of such calendar month for which no statement has been previously delivered ;---And such statement shall be certified as correct by the signature of the Cashier or other proper officer of the Bank to which it relates, and also by the President, or person acting as the President of the same, or by the party or one of the parties acting as a Banker or as Bankers, or his or their Chief Clerk, or authorized agent ; and the person or persons, so certifying any statement, shall make and sign a declaration in writing before a Justice of the Peace, that he or they have had the means of knowing that such statement is correct, and that it is so to the best of his or their knowledge and belief. 4, 5 V. c. 29, s. 1.

Wilful false statement to be punishable as perjury.

2. Any wilfully false allegation in any such statement shall be a misdemeanor, for which the person making the same shall be liable to the punishment to which persons guilty of wilful and corrupt perjury are by law liable, in the place in which such false statement is made. 4, 5 V. c. 29, s. 2.

Duty on bank notes in circulation.

3. At the time any such statement is so delivered to the Receiver General, there shall be paid to him by the Bank, Banker or Bankers making the same, a duty at the rate of one per cent per annum on the average amount by which the Bank Notes therein mentioned as in circulation during the period for which such statement is made, have exceeded the average amount of the gold and silver coin and bullion, and debentures receivable in deposit for Registered Notes, under the laws regulating the business of Banking, which such Bank or Banker has had on hand during the same period. 4, 5 V. c. 29, s. 3, *as amended by* 16 V. c. 162, s. 2.

Penalty for refusal or neglect to deliver statement.

4. For any refusal or neglect to deliver any statement required by the foregoing enactments, at the time herein appointed, the Bank or party so refusing or neglecting, shall forfeit to Her Majesty the sum of one thousand pounds currency, for the public uses of the Province ; and such forfeiture, as well as any sum

sum due to Her Majesty under the foregoing enactments, may be recovered with costs in any way in which debts due to the Crown can be recovered in that part of the Province in which such forfeiture has been incurred, or such sum has become due.
 4, 5 V. c. 29, s. 4.

5. And whereas it is expedient to encourage the present Chartered Banks to adopt, as far as circumstances will permit, the principles embodied in the *Act respecting Banks and freedom of Banking*, as regards the securing of the redemption of their Bank-Notes: Therefore, if any Bank chartered, incorporated or recognized by or under any Act of the Legislature of this Province, certifies to the Governor of this Province, its willingness after in circulation at any time, to an amount not exceeding the highest amount of its Bank-Notes returned as in circulation at 10 to the Receiver General before the thirtieth day of August, 1851, and at the end of three years to restrict the amount of its Bank-Notes thereafter to be in circulation at any time, to an amount not exceeding the average amount thereof returned 15 as being in circulation in the years 1849 and 1850, excepting in either case, any further amount represented by securities as hereinafter provided,—an Order in Council may thereupon be made and published in the *Canada Gazette*, restricting the circulation of the Bank-Notes of 20 the said Bank accordingly, except as aforesaid, and such Order shall have effect from the date thereof, as if such restriction were made by an Act amending the Charter or 25 Act incorporating such Bank; and from and after the date thereof, and for the three years next thereafter, such Bank shall be liable to one half only of the duty which would otherwise be payable by it under this chapter, and after the expiration 30 of the said three years, no duty shall be payable by such Bank under this chapter;—And the Directors, or other managing body of any such Bank, may authorize the President or other Officer of the said Bank, to give the certificate aforesaid in the name 35 of the Bank, and under its Corporate Seal. 14, 15 V. c. 70, s. 1.

Preamble.

Any bank may, on consenting to restrict its issues to a certain amount, obtain a remission of the tax imposed by 4, 5 V. c. 29.

Order in Council to issue upon such consent—its effect.

6. Notwithstanding any such Order in Council, the Bank to which the same applies, may, from time to time, issue and have in circulation an amount of Bank-Notes beyond that 40 mentioned in such Order, but not exceeding the value for which the said Bank holds as its own property, gold or silver coin or bullion, or debentures of any kind issued by the Receiver General, (except such as are or may be issued under the Acts relative to the New Court Houses in Lower Canada, or

Notwithstanding such restriction, the bank may issue a further amount of bank-notes equal to the amount of specie or de-

*Note.—It does not appear that any Order in Council has been issued, or will probably be applied for under this and the two next following sections,—even if they are not effete by lapse of time. It would seem well to repeal them.

debentures reserved to meet them.

or those relative to the Building for the sitting of the Courts at Toronto,) the value of such debentures being reckoned at par; and it shall not be necessary that such debentures be deposited and registered notes obtained on them, as provided by the Laws now regulating Banking, but their nature, amount and value as aforesaid, and the amount of such gold and silver coin or bullion as aforesaid, and that of the Bank-Notes issued upon the same, shall be shewn in all official statements of the affairs of the Bank required under any Act or Law;—And the proceeds of the said gold and silver coin or bullion and debentures shall, in the event of the failure of the Bank, be applied exclusively to the redemption of its outstanding Bank-Notes; No duty shall be payable on any Bank-Notes lawfully issued under this section; but by any excess of issue not authorized by this chapter, the same penalties shall be incurred, and the same legal consequences shall follow as would have been incurred by or would have followed an illegal excess of issue without this chapter. 14, 15 V. c. 70, s. 2.

Bank to give in statement.

7. Every Bank availing itself of the next preceding section, shall cause to be made up to the last day of each month in every year, not being a Sunday or Holiday, a statement of the liabilities and assets of such Bank, in the form, and containing the particulars shewn in the Schedule to this chapter, which statement shall be verified by the declaration of some one of the Directors, or by the Cashier or some other like Officer of the Bank having a knowledge of the truth of the contents of such statement;—and such statement shall, within ten days after the day to which the same shall be made up, be published by the Bank in some newspaper published at the place where such Bank has its chief seat of business;—And for every default to publish such statement within the time hereby prescribed, such Bank shall forfeit to Her Majesty, for the public uses of the Province, the sum of Twenty-five Pounds, for each day during which such default continues, and for any wilfully false entry in any such statement, the Bank shall forfeit to Her Majesty, for the uses aforesaid, the sum of Two Hundred Pounds; the sum so forfeited to be recovered with costs as debt due to the Crown, in any Court having jurisdiction to the amount in civil cases. 14, 15 V. c. 70, s. 3.*

Penalties.

Forfeitures and duties how applied and accounted for.

8. All forfeitures or sums recovered under this chapter shall be paid to the Receiver General, and shall, with all other moneys paid to him under the authority of this chapter, form part of the Consolidated Revenue Fund of this Province. 4, 5 V. c. 29, s. 5.

Words "bank notes," how to be understood.

9. The words "Bank-Notes" in this Chapter, shall have the meaning assigned to them in the *Act respecting Banks and freedom of Banking*. 14, 15 V. c. 70, s. 4.

SCHEDULE

* NOTE.—Section 4 of 14, 15 V. c. 70, will be found in Cap. 55.

SCHEDULE.

Statement of the Liabilities and Assets of the Bank of *on*
the *day of* *185* .

LIABILITIES.

Bank-Notes in circulation not bearing interest. . .£	:	:
Bills of Exchange in circulation not bearing interest	:	:
Bills and Notes in circulation bearing interest.....	:	:
Balances due to other Banks.....	:	:
Cash deposits not bearing interest.....	:	:
Cash deposits bearing interest.....	:	:
Other liabilities, if any, stating their nature.....	:	:
Total liabilities.....£	:	:

ASSETS.

Coin and Bullion.....£	:	:
Landed or other property of the Bank.....	:	:
Government Securities.....	:	:
Bank-Notes, or Promissory Notes and Bills of other Banks.....	:	:
Balances due from other Banks.....	:	:
Notes and Bills discounted or other debts due to the Bank, not included under the foregoing heads, and believed to be good.....	:	:
Total Assets.....£	:	:

CAP. XXII.

An Act respecting the sale and management of the
Public Lands.

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

COMMISSIONER AND OFFICERS OF DEPARTMENT.

- Departments
of the survey-
or general and
Commissioner
of Crown lands
consolidated.
- 1.** The department and office of the Surveyor General of this Province, shall continue to be consolidated with the department and office of the Commissioner of Crown Lands, under the superintendence and management of the last named officer. 8 V. c. 11, s. 1.
- Powers and
duties of the
Surveyor Ge-
neral to be
exercised and
performed by
the Commis-
sioner of
Crown Lands.
- 2.** All the powers and duties which before the seventeenth day of March, 1845, were assigned to or vested in the Surveyor General, shall be vested in the Commissioner of Crown Lands ; and the said powers and duties shall be exercised and performed by him, or by any Assistant or Clerk in his department or office, or by any other person whom he, by an instrument in writing under his hand, authorizes to that effect, as effectually as they might before the said day have been exercised or performed by the Surveyor General. 8 V. c. 11, s. 2.
- Governor may
appoint agents
under this
Act.
- 3.** The Governor may from time to time appoint Agents to carry out this Chapter and Orders in Council under it, which Agents shall be paid in such manner and at such rates as the Governor in Council may direct. 16 V. c. 159, s. 17.
- Commissioner
of Crown
Lands and
agents to give
security.
- 4.** The Governor in Council shall require from the Commissioner of Crown Lands and from every Agent appointed under him, security for the due performance of his duty ; Provided that all securities given under any repealed Act, shall nevertheless continue in full force. 16 V. c. 159, s. 23.
- No agent to
purchase
lands.
- 5.** No County or Resident Agent for the sale of Public Lands shall within his division, directly or indirectly, purchase any land which he is appointed to sell ; and if any such Agent offends in the premises, he shall forfeit his office. 16 V. c. 159, s. 5.
- EXTENT OF THIS CHAPTER—ORDERS IN COUNCIL FOR CARRYING
IT OUT.
- This Act may
be extended
to Indian
lands by an
- 6.** The Governor in Council may from time to time declare the provisions of this Chapter or any of them to apply to the Indian lands under the management of the Chief Superintendent of

of Indian affairs, and the said Chief Superintendent shall, in respect to the lands so declared to be subject to this Chapter, have the same powers as the Commissioner of Crown Lands has in respect to Crown Lands. 16 V. c. 159, s. 15. Order in Council.

5 **7.** The Governor in Council may, from time to time, make such Orders as are necessary to carry out the provisions of this chapter according to their obvious intent, or to meet any cases which may arise and for which no provision is made by this chapter;—But no such Order shall be inconsistent with this chapter; and such orders shall be published in the Official Gazette and in such Newspapers as the Commissioner of Crown Lands may direct, and shall be laid before the Legislature within the first ten days of the Session next after the date thereof. 16 V. c. 159, s. 25. Governor in Council may make Orders to carry out this Act.

FREE GRANTS LIMITED.

15 **8.** Except as hereinafter provided, no free grant of Public Land shall be made. 16 V. c. 159, s. 2. Free grants limited.

9. Any claim to land arising under any Act repealed by the Act 16 Vict. c. 159, or under any Order in Council or other regulation of the Government in force, at or before the passing of that Act (14 June 1853,) shall be determined by the Governor in Council, or by the Commissioner of Crown Lands in cases or classes of cases referred to his decision by the Governor in Council: But no claim for land not actually located on the said 14th of June 1853, shall be entertained, whether arising from Militia, United Empire Loyalist, or Military Rights. 16 V. c. 159, s. 3. Determination of claims arising out of repealed Acts, &c.

20 **10.** The Governor in Council may appropriate any Public Lands as free grants to actual settlers upon or in the vicinity of any Public Roads opened through the said Lands in any new settlements, under such regulations as shall from time to time be made by Order in Council: But no such free grant shall exceed one hundred acres. 16 V. c. 159, s. 9. Free grants may be made to settlers on certain new roads.

35 **11.** The Governor in Council, may set apart and appropriate Sites of the said Public Lands as he deems expedient for the **30** ~~Washing~~ Market Places, Gaols, Court Houses, places of public purposes, and for other like Public purposes, and at any time before the issue of Letters Patent **40** ~~therefor~~, may revoke such appropriation as seems expedient;— and may make free grants for the purposes aforesaid, the trusts **45** ~~the~~ ~~uses~~ to which they are to be subject being expressed in the Letters Patent:—But no such grant shall be for more than ten acres in any one instance and for any one of the purposes aforesaid. 16 V. c. 159, s. 10. Lands may be set apart for markets, gaols and other public purposes.

SALES, AND LICENSES OF OCCUPATION AND ASSIGNMENTS
THEREOF.

Governor in Council may fix the price, &c., of land.

12. The Governor in Council may from time to time fix the price per acre of the Public Lands, and the terms of settlement and payment. 16 V. c. 159, s. 4.

Licenses of occupation to be granted in the first instance; their effect.

13. The Commissioner of Crown Lands may issue, under his hand and seal, to any person wishing to purchase and become a settler on any public land, an Instrument in the form of a License of Occupation; and such settler may take possession of and occupy the land therein comprised, subject to the conditions of such License, and may maintain suits in Law or Equity against any wrongdoer or trespasser, as effectually as he could do under a Patent from the Crown,—And such License of Occupation shall be *prima facie* evidence for the purpose of possession by the settler or his registered Assignee of any such suit;—And every settler or his assignee, upon the fulfilment of the conditions of his License, shall be entitled to a Deed in fee for the land comprised therein, which Deed shall, upon his application, be transmitted to him free of expense. 16 V. c. 159, s. 6.

Licenses of occupation heretofore granted to remain in force.

14. All licenses of occupation, certificates or receipts granted by the Commissioner of Crown Lands, before the said 14th June, 1853, for money received on the Sale of Indian, Crown, School or Clergy Lands, or any location ticket, shall have the same force, and shall enure to the benefit of the party to whom the same was granted, or to his assignee, in the same manner and to the same extent, as the Instrument in the form of a License of occupation mentioned in the next preceding Section. 16 V. c. 159, s. 29.

Commissioner of Crown lands to keep a register of assignments of claims to lands; on what proof entries shall be made therein: their effect, &c.

15. The Commissioner of Crown Lands shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made as well by the original nominee, purchaser or locatee, as by any subsequent assignee of any such claim, on Lands located before or purchased after the 14th day of June, 1853, in respect thereof,—such assignment being first produced to the Commissioner with an affidavit of due execution thereof sworn before any Justice of the Peace, and expressing truly the time of the execution of such assignment;—And thereupon the said Commissioner shall cause the material parts of every such assignment to be registered in such book of registry, and shall endorse on every such assignment a certificate of such registration;—And every such assignment so registered shall be valid against any one previously executed, but subsequently registered or unregistered;—And in all cases of such assignment duly registered, the patent may issue in the name of the assignee: 16 V. c. 159, s. 7.

Such registered assignment to be valid, and patent may issue.

2. If any subscribing witness to any such assignment is deceased, or has left the Province, the said Commissioner may register such assignment upon the production of an affidavit proving the death or absence of such witness and his handwriting. 16 V. c. 159, s. 7.

When witness is deceased, commissioner may register upon affidavit.

16. All assignments shall be unconditional :—The duties imposed by the next preceding Section, upon the Commissioner of Crown Lands for the registration of assignments of located claims, shall extend to the registration of assignments of claims located before or after the said 14th day of June 1853 ;— And all assignments of locations in Lower Canada executed before Notaries, or before one Notary and two witnesses, shall be sufficient and shall be registered accordingly. 16 V. c. 159, s. 8,—and see s. 28 of this chapter.

Duties of Commissioner under next preceding section extended to certain cases.

17. On any application for a Patent by the heir, assignee or devisee of the original nominee of the Crown, the Commissioner of Crown Lands may receive proof in such manner as he may direct and require in support of any claim for a Patent when the original nominee is dead, and upon being satisfied that the claim has been equitably and justly established, may report the same to the Governor in Council, and if the claim is approved, the Patent may issue to the party named in an Order in Council founded on such report or to his assignee : But nothing in this section shall limit the right of the party claiming a Patent, to make his application at any time to the Commissioners under the Act respecting claims to Lands in Upper Canada for which no Patents have issued. 16 V. c. 159, s. 28.

Proof may be required by Commissioner of Crown lands in case of application by the representatives of the locuttee.

Claims under U. C., Cons. Stat. c. 74.

FORFEITURE OF CLAIMS, AND ENFORCEMENT OF FORFEITURE.

18. If the Governor in Council is satisfied that any such settler, or his Assignee, has been guilty of fraud, or has violated any of the conditions of his License of Occupation, he may revoke such License, and resume the land therein mentioned and dispose of it as if such License had never been issued ; and no claim in Equity under such License shall be pleadable in any Court against a revocation under this Chapter, but the settler shall be taken to be, as against the Governor in Council or the Commissioner of Crown Lands, or any person claiming under the said Commissioner, a mere tenant at will. 16 V. c. 159, s. 11.

Governor in Council may revoke license in case of fraud.

19. Whenever it is made to appear to the satisfaction of the Commissioner of Crown Lands, that any Clergy Reserve Lot, before sold or leased, has been abandoned by the original purchaser or lessee, or that any instalment or any portion of the purchase money or rent has remained unpaid for five years or upwards, or when it is made manifest to him that it is not the intention of the original purchaser or lessee or his assignee to fulfil the conditions

Clergy Reserve lots may be sold, released, &c., on failure of the original purchaser or lessee to fulfil conditions.

of

of such sale or lease, by reason of the principal and interest or the rent amounting in the aggregate to a sum beyond the actual marketable value of the lot,---the Commissioner of Crown Lands, having first obtained an Order in Council to that effect, may re-sell such Lot as if no sale or lease had ever been made thereof, and the new purchaser shall have the same privileges and right of entry under any license or certificate from the Commissioner of Crown Lands as would pertain to any license or certificate granted in the first instance for any other Sale of Clergy Lands under this Chapter ;--But such new sales shall be on the condition that one fifth of the purchase money shall be paid in hand, and the remaining four-fifths in four equal annual instalments with interest. 16 V. c. 159, s. 27.

Land may be resumed when claim is declared forfeited.

Proviso—privilege to be allowed to locatee in certain cases.

20. When claims to locations of land are forfeited by Order in Council, the Crown may resume the land under this Chapter, to which it shall then be subject, and shall be disposed of accordingly ;--Provided that the Governor in Council may, upon the special merits of any case, extend a right of pre-emption to the original locatee, his heirs and assigns, upon such terms and for such price as may seem just in the case, or, when such forfeiture has been founded on an erroneous report, he may regrant the lot to the original locatee, his heirs or assigns. 16 V. c. 159, s. 13.

Mode of obtaining possession if the settler refuses to deliver up the land on the revocation of his license.

21. When any settler or other person refuses or neglects to deliver up possession of any land after revocation of the License of Occupation as aforesaid, the Commissioner of Crown Lands may apply to the County Judge of the County or to a Judge of the Superior Court in the Circuit in which the land lies, for an Order in the form of a Writ of Ejectment or of *Habere facias possessionem*, and the said Judge, upon proof to his satisfaction that the land was held under a License of Occupation, and that such License has been revoked by the Governor in Council, shall grant an Order upon the settler or person in possession, to deliver up the same to the Commissioner of Crown Lands, or his Agent ; and such Order shall have the same force as a Writ of *Habere facias possessionem*, and the Sheriff shall execute the same in like manner as he would execute the said Writ in an action of Ejectment or Petitory Action. 16 V. c. 159, s. 12.

PATENTS ISSUED IN ERROR.

Erroneous patents may be cancelled, and correct ones issued when there is no adverse claim.

22. Whenever a Patent has been erroneously issued or contains any clerical error, misnomer or wrong description of the land thereby intended to be granted, the Governor in Council may, upon the Report of the Commissioner of Crown Lands, (there being no adverse claim,) direct the defective Patent to be cancelled and a correct one to be issued in its stead, which corrected Patent shall relate back to the date of the one,

so cancelled, and have the same effect as if issued at the date of such cancelled Patent. 16 V. c. 159, s. 18.

23. In all cases in which Grants or Letters Patent have
5 issued for the same land inconsistent with each other through
error, and in all cases of sales or appropriations of the same
land inconsistent with each other, the Governor in Council
may order a new grant equivalent to the land of which any
10 grantee or purchaser is thereby deprived :—And no such claim
shall be entertained unless it is preferred within five years after
discovery of the error. 16 V. c. 159, s. 19.

In cases of double grants of the same land, an equivalent may be granted to the loser.

24. Whenever by reason of false survey, any grant, sale or
appropriation of land is found to be deficient, the Governor in
Council may order a free grant equal in value to the ascertained
15 deficiency ;—But no such claim shall be entertained unless
application has been made within five years from the dis-
covery of the deficiency, nor unless the deficiency is equal to
one tenth of the whole quantity described as being contained in
the particular lot or parcel of land granted. 16 V. c. 159, s. 20.

Free grant as compensation for loss by erroneous survey.

25. In all cases wherein Patents for lands have issued
20 through fraud or in error or improvidence, the Court of Chan-
cery in Upper Canada, and the Superior Court in Lower Ca-
nada, may, upon action, bill or plaint respecting such lands
situate within their jurisdiction, and upon hearing of the
25 parties interested, or upon default of the said parties after
such notice of proceeding as the said Courts shall respectively
order, decree such Patents to be void :—And upon the registry
of such decree in the office of the Provincial Registrar, such
30 Patents shall be void to all intents ;—The practice in Court,
in such cases, shall be regulated by orders to be from time to
time made by the said Courts respectively : and any action or
proceeding commenced under any former Act may be continued
under this section, which, for the purpose of any such action or
35 proceeding, shall be construed as merely continuing the pro-
visions of such former Act. 16 V. c. 159, s. 21.

Court of Chancery in U. C. and Superior Court in L. C. may void patents issued in error.

Practice in such cases.

Pending proceedings continued.

MISCELLANEOUS PROVISIONS.

26. The Commissioner of Crown Lands shall cause lists of
the Crown, School and Clergy Lots for sale in the several Town-
ships in Canada, to be made out from time to time, and
40 advertised and exhibited as he deems most advisable for
ensuring general information. 16 V. c. 159, s. 16.

Lists of Crown, school and clergy lands for sale to be published.

27. The Commissioner of Crown Lands shall transmit in
the month of January in each year, to the Registrar of every
County or Registration District, and to the Secretary-Treasurer
of any Municipality in Lower Canada, a list of the Clergy and
45 Crown Lands sold or for which licenses of occupation have
been granted in such County or Registration District, and
upon

Commissioner to transmit yearly to county registrars lists of lands sold, &c.

upon which a payment has been made; which said Crown, Clergy and School lands shall be liable to the assessed taxes in the Townships in which they respectively lie from the date of such sale or license: and the Commissioner of Crown Lands shall in like manner apprise each Registrar of the cancellation of any License of Occupation or Patent. 16 V. c. 159, s. 24.

Before whom affidavits under this Act may be made.

28. All affidavits required under this chapter may be taken before the Judge or Clerk of any County or Circuit Court, or any Justice of the Peace, or any Commissioner for taking affidavits, or any Agent of the Commissioner of Crown Lands. 16 V. c. 159, s. 22.

Powers of Commissioners.

29. All Commissioners for taking affidavits in the Superior Courts of Law either in Upper or Lower Canada, shall have the same power for administering oaths in matters relating to the Crown, Clergy and School Lands, as are possessed by Justices of the Peace. 16 V. c. 159, s. 8.

ANNEXING SMALL GORES TO TOWNSHIPS.

Governor, may, by proclamation, annex gores to adjacent townships.

30. Whenever there is among the Townships in either section of this Province, any gore or small tract of land, which is not included in the original survey and description of any Township, and is of too limited extent to form a Township by itself,—the Governor may, by Proclamation, annex such gore or tract of land to any Township to which it is adjacent, or partly to one and partly to another of any two or more Townships to which it is adjacent, as he deems expedient; and from and after the day appointed in such Proclamation, from the date thereof, if no other day be therein appointed for the purpose, the tract of land thereby annexed to any Township shall form part thereof. 12 V. c. 11, s. 2.

CAP. XXIII.

An Act respecting the sale and management of Timber on Public Lands.

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

LICENSES TO CUT TIMBER ON PUBLIC LANDS.

1. The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licenses to cut Timber on the ungranted Lands of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be established by the Governor in Council, and of which notice shall be given in the *Canada Gazette* :

Commissioner of Crown lands may grant licenses to cut timber on public lands.

2. No license shall be so granted for a longer period than twelve months from the date thereof; and if in consequence of any incorrectness of survey or other error, or cause whatsoever, a license is found to comprise lands included in a license of a prior date, the license last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the license so rendered void, shall have no claim upon the Government for indemnity or compensation by reason of such avoidance. 12 V. c. 30, s. 1.

Period of license.

As to interfering licenses.

3. The said licenses shall describe the lands upon which the Timber may be cut, and shall confer for the time being on the nominee, the right to take and keep exclusive possession of the lands so described, subject to such regulations and restrictions as may be established;—And such licenses shall vest in the holders thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether such trees, timber and lumber are cut by authority of the holder of such license, or by any other person, with or without his consent;—And such licenses shall entitle the holders thereof to seize in revendication, or otherwise, such trees, timber or lumber where the same found in the possession of any unauthorized person, and also, to institute any action or suit at law or equity against any wrongful possessor or trespassers, and to prosecute all trespassers and other offenders to punishment, and to recover damages if any;—And all proceedings pending at the expiration of any such license may be continued to final termination as if the license had not expired. 12 V. c. 30, s. 2.

Form of license, and its legal effect.

Proceedings when the license expires.

OBLIGATIONS OF PARTIES OBTAINING LICENSES.

Return to be made by persons obtaining licenses. 3. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of saw logs, or of the number and description of sticks of square timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman, before a justice of the Peace; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly. 12 V. c. 30, s. 3.

To be attested on oath. 4. All timber cut under licenses shall be liable for the payment of the Crown dues thereon, so long as and wheresoever the said timber or any part of it may be found, whether in the original logs or manufactured into deals, boards or other stuff, and all officers or agents entrusted with the collection of such dues may follow all such timber and seize and detain the same wherever it is found until the dues are paid or secured. 12 V. c. 30, s. 4.

Timber liable to payment of dues may be followed until they are paid. 5. Bonds or promissory notes taken for the Crown dues, either before or after the cutting of the timber, as collateral security or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the said dues are actually discharged. 12 V. c. 30, s. 5.

The giving of bonds or notes not to affect the lien on the timber. 6. If any timber so seized and detained for non-payment of Crown dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid,—then the Commissioner of Crown Lands, with the previous special sanction of the Governor in Council, may order a sale of the said timber to be made after sufficient notice,—and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber. 12 V. c. 30, s. 6.

LIABILITY OF PERSONS CUTTING WITHOUT LICENSE.

Penalty on persons cutting timber without license, &c. 7. If any person without authority cuts or employs or induces any other person to cut, or assists in cutting any timber of any kind on any of the Crown, Clergy, School or other Public Lands, or removes or carries away or employs or induces or assists any other person to remove or carry away any Merchantable timber of any kind so cut from any of the Public Lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the

the same for market, or conveying the same to or towards market,—and when the timber or saw logs made, has or have been removed out of the reach of the Officers of the Crown Lands Department, or it is otherwise found impossible to seize the same, he shall in addition to the loss of his labour and disbursements, forfeit a sum of fifteen shillings for each tree, (rafting stuff excepted,) which he is proved to have cut or caused to be cut or carried away,—and such sum shall be recoverable with costs, at the suit and in the name of the Commissioner of Crown Lands or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty ;—And in all such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this chapter, shall be sufficient proof thereof, unless the defendant proves the contrary. 12 V. c. 30, s. 7.

Timber must have been removed.

Party accused must prove the granting of license.

8. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent party, is received by the Commissioner of Crown Lands or any other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands, and describing where the said timber can be found, the said Commissioner, officer or agent, or any one of them, may seize or report to be seized, in Her Majesty's name, the timber so reported to be cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority :

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, &c.

2. And where the timber so reported to have been cut without authority on the Public Lands, has been made up with other timber into a crib, dram or raft, or in any other manner has been mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on Public Lands without license, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Public Lands, and shall be liable to seizure and forfeiture accordingly until satisfactorily separated by the holder. 12 V. c. 30, s. 8.

As to timber so cut and mixed up with other timber.

RESISTING SEIZURE—REMOVING TIMBER SEIZED—CONDEMNATION OF SUCH TIMBER, &C.

9. Any officer or person seizing Timber, in the discharge of his duty under this chapter, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized :—And if any person under any pretence, either by assault, force or violence, or by threat of such assault, force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this chapter, such person being convicted, shall

Seizing Officer may command assistance.

Violent resistance to be felony.

shall be adjudged guilty of felony and shall be punishable accordingly. 12 V. c. 30, s. 9.

Carrying away timber under seizure to be deemed a stealing thereof.

10. If any person, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken and carried away, without permission of the officer or person who seized the same, or of some competent authority, any timber seized and detained as subject to forfeiture under this chapter, before the same has been declared by competent authority to have been seized without due cause, such person shall be deemed to have stolen such timber being the property of the Crown, and to be guilty of felony and liable to punishment accordingly.

Burden of proof that dues have been paid, on whom to lie.

And whenever any timber is seized for non-payment of Crown dues or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this chapter, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any of the public lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same or the party bringing such prosecution. 12 V. c. 30, s. 10.

Timber seized to be condemned, if not claimed within a certain time.

11. All timber seized under this chapter shall be deemed to be condemned, unless the person from whom it was seized or the owner thereof, within one calendar month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that he claims or intends to claim the same; failing such notice, the officer or agent seizing, shall report the circumstances to the Commissioner of Crown Lands, who may order the sale of the said timber by the said officer or agent, after a notice on the spot, of at least thirty days :

Judge may order timber to be delivered on security being given.

2. And any Judge, having competent jurisdiction, may, whenever he deems it proper, try and determine such seizures and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Commissioner of Crown Lands, to Her Majesty's use and shall be delivered up to and kept by the Commissioner,—and if such seized timber is condemned, the value thereof shall be forthwith paid to the Commissioner of Crown Lands, or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. 12 V. c. 30, s. 11.

- 12.** Every person availing himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. Forfeiture of timber in case of fraud. 12 V. c. 30, s. 12.
- 13.** Every person maliciously cutting or loosening any Boom, or breaking up or cutting loose any Raft or Crib, shall be guilty of a misdemeanor, punishable by fine, and imprisonment of not less than six months. Maliciously cutting Booms, &c., to be a misdemeanor. 12 V. c. 30, s. 13.
- 14.** Nothing in this chapter shall in any way invalidate or affect licenses granted before the thirtieth day of May, 1849, or any obligation then contracted for payment of Crown dues under such licenses, or invalidate the lien of the Crown on any timber cut upon Public Lands, within the limits of the Province on that day, and upon which the dues theretofore exacted have not been paid, notwithstanding any bond or promissory note taken for the amount of such dues. Existing licenses, or liens, saved. 12 V. c. 30, s. 14.

C A P . X X I V .

An Act respecting the Ordnance and Admiralty Lands transferred to the Province.

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

- 1.** The Lands and Property vested immediately before the nineteenth day of June, 1856, in the Principal Officers of Her Majesty's Ordnance, or in the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, and situate in this Province, shall be divided into three classes :
- Lands to be divided into three classes.**
- First class.** One class to be denominated A, which shall include all the lands and property included in the first Schedule to this chapter annexed, which are and shall be vested in Her Majesty's Principal Secretary of State for the War Department ;
- Second class.** Another class to be denominated B, which shall consist of such buildings or portions of the lands or property included in the second Schedule to this chapter as may, from time to time, be placed in class B by authority of the Governor in Council. (19, 20 V. c. 45, s. 8), and which shall be retained by the Provincial Government for the defence of the Province ; 18 V. c. 91, s. 2.
- Third class.** And a third class to be denominated C, to be made up of the remainder of the lands, buildings and property enumerated in the second Schedule to this Chapter ; which class C may be sold, leased or otherwise used as to the Governor in Council from time to time seems meet. 18 V. c. 91, s. 2.
- Lands, &c., in Schedule 2, vested in Her Majesty for the public uses of the Province.**
- 2.** The lands and other real property comprised in the second Schedule to this Chapter annexed, being a portion of the messuages, lands, tenements, estates and hereditaments formerly vested in the said Principal Officers of Her Majesty's Ordnance, by whatever mode of conveyance the same have been acquired or taken either in fee or for any life or lives, or for any term of years, or any other or lesser interest, and all erections and buildings erected thereon, with the rights, members, easements and appurtenances to the same belonging, shall be and continue absolutely vested in Her Majesty, for the purposes of this Province, and shall be subject to the provisions of the Laws relating to Public Lands, and any further provisions which the Legislature may enact in respect thereof, and shall be held, used, conveyed and dealt with accordingly ; but subject nevertheless to all Sales, Agreements, Leases or Agreements for Lease entered into, with or by the Principal Officers of Ordnance,

Ordnance, or any person empowered by them. 19, 20 V. c. 45, s. 6. And the Governor in Council may accept the transfer of any other such lands to the Province, on such terms and conditions as he may agree upon with the Imperial Government. 18 V. c. 91, s. 1—*part*.

Rights of third parties not to be affected. As to pending suits, &c.

3. Nothing in this Chapter shall affect the rights of any parties claiming any of the lands, buildings or other property referred to in the said second Schedule; and all actions pending on the 19th day of June, 1856, against the said Principal Officers in relation thereto may be proceeded with to final judgment in the name of the said Principal Officers; and the Attorney General may appear in any such case on behalf of the Crown, and the Crown and all other persons shall be bound by the final judgment of the Court in any such suit. 19, 20 V. c. 45, s. 7.

15 4. Such of the lands in class B, as it is deemed necessary by the Governor in Council and the Officer commanding Her Majesty's Regular Forces in the Province, to occupy for the defence of the Province in time of Peace, shall be so occupied by such force as shall be from time to time selected by the Governor in Council, and shall be kept in proper order and repair by the Province; and any portion of the lands so retained for the defence of the Province which it is not deemed necessary to occupy as aforesaid, may be leased or otherwise used as the Governor in Council may think most for the 20 advantage of the Province. 18 V. c. 91, s. 3.

As to lands in class B which ought to be retained for the defence of the Province.

25 5. The moneys arising from the lease or use of any of the lands or property in class B, or from the sale, lease or use of any of the lands or property in class C, shall be paid over to the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province;—but separate accounts shall be kept thereof, and in any account of the expenses incurred for purposes relative to the Provincial Militia or Police, the 30 said moneys shall be taken into account and credited in deduction of the said expenses. 18 V. c. 91, s. 5.

Application of moneys arising from such lands.

Separate accounts to be kept of them, &c.

35 6. The Governor in Council may authorize the payment out of the Consolidated Revenue Fund, of a life annuity not exceeding four pounds sterling, per annum, to each pensioner located upon the Ordnance Lands, in the second Schedule to this Chapter, situate at Toronto, London and Niagara, in consideration of the transfer of the said lands to the Province, and in lieu of all claims of the said pensioners thereon,—provided the 40 number of such pensioners do not exceed five hundred. 19, 20 V. c. 2, s. 1.

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

45 7. The Governor in Council, in consideration of the transfer of the said lands at Penetanguishene, Amherstburg and Fort Erie, may authorize the payment of a like annuity out of the said Fund to each of the Pensioners located thereon, and of such further sum for his actual improvements, as he is entitled 50 to according to the conditions of his location, such annuity and sum to be in lieu of all his claims upon such land;—provided the number

The same as to certain other lands.

Allowance for improvements.

number of such pensioners do not exceed two hundred, and that the sum paid to any such pensioner for improvements do not exceed the amount regulated by such conditions. 19, 20 V. c. 2, s. 2.

How paid and
accounted for. 8. The said annuities and sums shall be a charge upon the said Consolidated Revenue Fund, and shall be paid and accounted for in like manner as other sums charged thereon. 19, 20 V. c. 2, s. 3. 5

THE FIRST SCHEDULE.

MILITARY LANDS to be vested in Her Majesty's Principal Secretary of State for the War Department :

QUEBEC	}	The Citadel of Quebec, Fortifications, Glacies, Barracks, Lands with the appurtenances thereunto in any manner belonging, and the Barracks called the Jesuit Barracks, and the several Public Offices occupied for the various Military purposes, and all other Military properties at that station.
MONTREAL	}	The Barracks, Public Offices Lands heretofore held or purchased by the Ordnance for the erection of Barracks or for the defence of the Province, together with the Island of Saint Helens in the River Saint Lawrence, as heretofore held by the Principal Officers of the Ordnance, for various Military purposes, with the exception of a parcel of land at Longueuil which has been purchased for the purpose of a <i>tête de pont</i> , which is to be retained until an adequate quantity of land is substituted by the Province in lieu thereof, in the vicinity of the projected Bridge across the Saint Lawrence ; and also with the exception of the Old Barracks at Montreal, which are to be retained until Barracks have been constructed for the accommodation of one thousand men, on a site to be approved by the Military Authorities.
KINGSTON	}	All the Military Works on the east and west of the Harbour and the lands connected with them not named in the Second Schedule.
NIAGARA	}	Fort Mississagua with its Glacies and other appurtenances.
SOREL	}	The Barracks, Government Cottage and land required for defence.

19, 20 V. c. 45—Schedule 1.

The Act 7 V. c. 11, is repealed as to lands transferred to the Province by 19, 20 V. c. 45, s. 9.

THE

THE SECOND SCHEDULE.

MILITARY PROPERTIES in Canada transferred to the Provincial Government.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Témiscouata.	11	2	10	Stockaded Barrack.
Three-Rivers.	3	2	9	Barrack and Fuel Yard.
Sorel.	45,220	..	..	Seigneurie, Domain and other appurtenances.
Montreal.	..	..	..	Old Barracks.—Parcel of Land for <i>tête de pont</i> at Longueuil.—So soon as the conditions set forth in the first Schedule have been complied with.
La Prairie.	42	1	8	Barracks for Cavalry, Artillery and Infantry.
St. Johns.	176	..	..	Infantry Barracks and Old Fort.
Lake-au-Loup and Sorel River.	295	..	..	Fort Lennox and Reserve.
Chambly.	157	1	22	Old Fort, Barracks for Cavalry, Artillery and Infantry, with Barrack Master's house, &c.
Châteauguay.	5	..	1	Blockhouse.
Compton.	9	..	12	Wood Yard, Common and Canal.
Coleville.	..	2	23	Storehouse and Wharf.
Châteaubleau-Lac.	15	3	39	Fort.
Corwall.	1	..	..	Fuel Yard.
Prescott.	74	..	..	Fort Wellington.
Grant's Island, Brockville.	..	2	32	Blockhouse.
..	180	3	4	Lot 23 or Herchmer Farm.
..	11	2	10	Gore between lots 23 and 24.
..	11	1	31	} Parts of lot 24.
..	15	..	8	
..	6	2	..	} Lots 19, 21 and 22, Place d'Armes.
..	..	2	16	
..	4	0	8	Lots 23, 24 and 25, do. do.
..	3	1	5	Late Commandant's Quarter, and lots 286, 382 and 413.
..	44	3	17	Old Tannery.
..	110	..	..	Ferguson Property.
..	1	..	..	Horse Shoe Island.
..	100	..	..	Snake Island.
..	1260	..	..	Kingston Mills Reserve, &c.
..	100	..	..	Reserve.
..	..	..	..	Do.
..	502	2	1	Old Fort, New Barracks.
..	..	..	..	Hospital Bathurst St. Barracks.
..	178	..	..	Commissariat Quarters, Stores.
..	200	..	..	Guard house and Victoria Square.
..	444	2	4	Reserve Burlington Heights.
..	..	..	..	Lots 5 and 6 (on Pelham
..	130	..	..	Reserve, Barracks and Hospital.—All, except Fort Mississagua.
..	..	..	..	Reserve —All, except that sold to the Purchasers of the Hamilton Estate.
..	3	1	..	Reserve.
..	19	3	27	Barrack and Store.
..	1000	..	..	Reserve.
..	..	..	..	Do — Except that located by enrolled Pensioners.

THE SECOND SCHEDULE—Continued.

MILITARY PROPERTIES in Canada transferred to the Provincial Government.

SITUATION.	Approximate Quantity of Land.			Description of Buildings or Military Works.
	A.	R.	P.	
Port Maitland.....	426	..	..	Reserve.
Turkey Point.....	592	..	..	Do.
London.....	74	..	..	Artillery and Infantry Barracks.
Chatham.....	11	3	..	8 Infantry Barrack.
Rond Eau.....	500	..	..	Reserve.
Amherstburg.....	523	..	..	} Fort, Block and Picket Houses— } Except as located by enrolled Pensioners.
Boisblanc Island.....				
Fighting Island.....	1,200	..	..	Reserve.
Windsor.....	4	..	..	Infantry Barrack.
Port Edward Sarnia.....				Reserve.—Except land sold to Contractors for the Grand Trunk Railway.
Owen Sound.....	51	..	..	Reserve.
Nottawasaga Bay.....	66	..	..	Do.
Penetanguishene.....	5396	2	15	Reserve and Barracks.—Except that located by enrolled Pensioners and under license of occupation to Major Ingall.
St. Joseph.....	450	..	..	Reserve.
St. Mary's Island.....	170	..	..	Do.
Rideau and Ottawa Canals.....				City of Ottawa, Barracks, Block-houses and Adjuncts of the Canals.

19, 20 V. c. 45—Schedule 2.

C A P . X X V .

An Act respecting the Clergy Reserves.

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

MUNICIPALITIES FUNDS IN L. C. AND U. C.

1. The moneys arising from the Clergy Reserves in Upper Canada shall form a separate Fund, called the Upper Canada Municipalities Fund, and the moneys arising from the Clergy Reserves in Lower Canada shall form a separate Fund, called the Lower Canada Municipalities Fund. 18 V. c. 2, s. 1—*part.*

Proceeds of Reserves to form two funds, one for U. C and one for L. C.

2. The Municipalities Fund for each section of the Province, respectively, shall consist—of all moneys arising from the sale of Clergy Reserves in such Section, whether now funded or invested either in the United Kingdom or in this Province, or remaining uninvested, or to arise from such sales,—the interest and Dividends of moneys forming part of such Fund,—the interest upon sales of Clergy Reserves in that Section, on credit,—and rents, issues and profits arising from Clergy Reserves therein demised or to be demised for any term of years, and other casual and periodical incomings arising from Clergy Reserves thereon,—after deducting therefrom the actual and necessary expenses attending the sales of the said Clergy Reserves and of managing the same and the Funds aforesaid ; And the moneys forming the said Funds shall be paid into the hands of the Receiver General and shall be by him applied to the purposes hereinafter mentioned, under the authority of this Chapter, or any General or Special Order or Orders to be made by the Governor in Council. 18 V. c. 2, s. 1—*remainder.*

Of what such funds shall respectively consist.

Moneys to be paid into the Receiver General's hands for the purposes of this chapter.

FIRST CHARGES ON THE SAID FUNDS, AND HOW PAYABLE, &C.

3. The annual stipends or allowances which had been before the passing of the Act of the Parliament of the United Kingdom, passed in the sixteenth year of Her Majesty's Reign, and chaptered 21, assigned or given to the Clergy of the Churches of England and Scotland, or to any other Religious Bodies or denominations of Christians in either Section of the Province, and chargeable under the Act of the said Parliament on the Clergy Reserves in such Section, (and to which the faith of the Crown is pledged) shall, during the natural lives or incumbencies of the parties receiving the same at the time of the passing of the said Act, be the first charge on the Municipalities Fund for that Section of the Province, and shall be paid out of the same in preference to all other charges or expenses whatever: Provided, that the annual allowance payable

Annual stipends or allowances charged on the Reserves to be payable during the lives or incumbency of the present recipients.

Proviso: as to certain Religious bodies.

payable immediately before the eighteenth December, 1854, to the Roman Catholic Church in Upper Canada, and to the British Wesleyan Methodist Church for Indian Missions, shall continue to be payable during the twenty years next after that day, and no longer. 18 V. c. 2, s. 2.

Governor in Council may, with consent of parties interested, commute such stipends, &c., for their value in money.

4. To remove all semblance of connection between Church and State, and to effect an entire and final disposition of all matters, claims and interests arising out of the Clergy Reserves,—the Governor in Council may, whenever he deems it expedient, with the consent of the parties and Bodies severally interested, commute with the said parties such annual stipend or allowance for the value thereof, to be calculated at the rate of six per cent. per annum, upon the probable life of each individual; and in the case of the Bodies above particularly specified in the next preceding section, at the actual value of the said allowance at the time of commutation to be calculated at the rate aforesaid: And such commutation shall be paid accordingly out of that one of the Municipalities Funds upon which such stipend or allowance is made chargeable by this Act:

Proviso: Commutation money to Religious bodies not to be invested in real property, &c.

Provided that in case of commutation with either of the said Bodies or Denominations, it shall not be lawful for them or either of them to invest the moneys paid for such commutation, or any part thereof, in Real property of any kind whatsoever, under penalty of forfeiting the same to Her Majesty; and that the said Bodies or Denominations shall lay before the Legislature whenever called on so to do, a statement of the manner in which said moneys have been invested or appropriated. 18 V. c. 2, s. 3.

Sufficient of such funds to be retained to pay stipends, &c., while chargeable on the said funds.

5. So long as any such stipend or allowance is chargeable upon either of the said Municipalities Funds, a portion of such Fund producing annually interest sufficient to pay every such stipend or allowance then chargeable thereon, shall be retained by the Receiver General, and appropriated for that purpose, and if not already invested shall be by him invested in Public British Securities, or in any Provincial Debentures or Securities which under the *Act respecting Banks and freedom of Banking*, may be accepted by the Receiver General in exchange for registered Bank-notes, as the Governor in Council may from time to time direct; And the Receiver General, being thereunto authorized by order of the Governor in Council, may dispose of any Securities in which such moneys are invested, and invest the proceeds in any other such Securities as aforesaid, or may apply them to the payment of the commutation aforesaid. 18 V. c. 2, s. 4.

APPROPRIATION OF THE RESIDUE OF THE SAID FUNDS—IN LOWER CANADA.

Lower Canada Municipalities Fund appro-

6. The amount of the Lower Canada Municipalities Fund, remaining on the 10th of June, 1857, after paying the charges upon

upon it hereinbefore mentioned shall be appropriated for the purposes set forth in the *Lower Canada Judicature Act*, or any Act substituted for it. 20 V. c. 44, s. 100.

appropriated to the purposes of 20 V. c. 44.

IN UPPER CANADA.

7. The amount of "The Upper Canada Municipalities Fund," remaining unexpended and unappropriated under the foregoing provisions, on the thirty-first day of December, in the year one thousand eight hundred and fifty-five, and on the same day in each year thereafter, shall, by the Receiver General, be apportioned equally among the several City, Town, Incorporated Village and Township Municipalities in Upper Canada, in proportion to the number of Rate-payers resident within the Municipalities whose names appear on the Assessment Rolls of such Municipalities for the year next before the time of such apportionment. 19, 20 V. c. 16, s. 1, *as amended by* 20 V. c. 71, s. 1.

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

8. The Clerks of the several Cities, Towns, Incorporated Villages and Townships in Upper Canada shall, on or before the thirty-first day of December in each year, transmit to the Receiver General true Returns of the number of such Rate-payers appearing on the said several Assessment Rolls for the year in which such Returns are made, and shall make an affidavit of the correctness of the Returns, to be written on each of the said Returns, and in the form of the Schedule to this Chapter annexed, and sworn before a Justice of the Peace. 19, 20 V. c. 16, s. 2, *except as to the form of Schedule, for which see* 20 V. c. 71.

Clerks to make returns to the Receiver General.

Returns to be sworn to.

9. If at the time when any such payment is to be made, any sum of money is payable by any Municipality to the Receiver General for any cause whatever, and is overdue, he may retain in his hands in satisfaction or part satisfaction thereof, the sum which would otherwise be payable to such Municipality, or so much thereof as may be equal to the sum so payable to him by the Municipality, and overdue, and he shall deliver to the Treasurer, Chamberlain or other proper Officer thereof, a discharge in favor of the Municipality for a sum equal to that so retained by him; And for the purposes of this section, each Union of Counties for Municipal purposes in Upper or Lower Canada, shall be taken to be a County Municipality. 18 V. c. 2, s. 5.

If the Municipality has money to pay to the Receiver General.

What shall be deemed a Municipality.

10. Any Clerk of any of the said Municipalities who fails to make any Return required by the next preceding section but one, by the time therein limited, shall for each failure be liable to a penalty of twenty-five pounds to be paid to the Receiver General for the use of the Province, which penalty may be sued for and recovered by the Crown in any Court of competent jurisdiction. 19, 20 V. c. 16, s. 3.

Penalty on Clerks not making such return.

Municipalities may set aside their share of the Clergy Reserve moneys for any special purpose, and invest it. **11.** The several Municipalities aforesaid in Upper Canada may by By-law set apart for any special purpose to be mentioned in such By-law, the whole or any part of the moneys derived from "The Upper Canada Municipalities Fund," and may invest the same in the purchase of Provincial, Consolidated Loan Fund or Municipal Debentures, for the purposes mentioned in such By-law, and may from time to time sell and dispose of such securities and reinvest the proceeds in other like securities, or otherwise appropriate the same in the manner mentioned in and directed by the said By-law or other By-law passed for that purpose. 20 V. c. 71, s. 2.

Recital. **12.** And whereas several of the said Municipalities had before the tenth day of June, 1857, set apart and invested moneys derived from the said fund, for special purposes; Therefore, any By-law theretofore passed setting apart and authorizing the investment of such moneys as last aforesaid, and under which By-law such moneys had then been actually invested, shall be held good and valid. 20 V. c. 71, s. 3.

By-laws made before 10th June, 1857, for setting apart and investing such share confirmed.

MISCELLANEOUS PROVISIONS.

Recovery of money overpaid under erroneous return. **13.** In case it should at any time appear that by reason of an erroneous return too much money has been paid to a Municipality, the excess shall be a debt to the Crown recoverable from such Municipality. 19, 20 V. c. 16, s. 4.

Repeal of certain parts of Imperial Act, 3, 4 V. c. 78. **14.** So much of the Act of the Imperial Parliament, 3, 4 V. c. 78, as limits the quantity of lands forming part of the Clergy Reserves which may be sold in any one year without the previous approbation in writing of one of Her Majesty's Principal Secretaries of State, and so much of the said Act as makes any appropriation of any moneys forming part of the Clergy Reserves Fund or arising from the sale of Clergy Reserves, other than such as is made by this chapter, and so much of the said Act as is inconsistent with this chapter, is repealed. 18 V. c. 2, s. 6.

Certain lands to be deemed "Clergy Reserves." **15.** Any lands under authority of any Act then in force which have been accepted in exchange for lands originally forming part of the Clergy Reserves in any part of this Province, shall be deemed to be Clergy Reserves for all the purposes of this chapter. 18 V. c. 2, s. 7.

SCHEDULE.

A. B, Clerk of the Municipality of the (City, Town, Township or Village, as the case may be,) maketh oath and saith, that the (above, within written or annexed, return, as the case may be) contains a true statement of the number of resident Rate-payers appearing on the Assessment Roll of the said City, &c., as the case may be, for the year eighteen hundred and fifty

Sworn before me, &c. 20 V. c. 71—Schedule.

C A P.

C A P . X X V I .

An Act respecting the Public Fund for Education.

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

1. The Commissioner of Crown Lands, having, under the provisions of the Act 12 V. c. 200, and under the direction of the Governor in Council, set apart and appropriated one million of Acres of Public Lands, for Common School purposes, and portions thereof having been disposed of under the said authority, the remainder shall be disposed of by the Commissioner, on such terms and conditions as may by the Governor in Council be approved, and the money arising from the sale or disposal of any portion of the said lands shall remain or be invested and applied towards creating a capital sum sufficient at the rate of six per cent per annum interest to produce a clear sum of one hundred thousand pounds per annum, and such capital and the income therefrom shall form the Common School Fund: But before any appropriation of the moneys arising from the sale of such Lands shall be made, all charges thereon for the management or sale thereof, and all Indian annuities charged upon such lands or moneys, shall be first paid. 12 V. c. 200, s. 3.

Appropriation of one million acres for Common School Fund.

Certain charges to be first paid.

2. All moneys arising after the twenty-seventh day of May, one thousand eight hundred and fifty, from the Sale of any Public Lands of the Province, shall remain or be set apart as part of the Capital of the said Common School Fund until the same is sufficient at the rate aforesaid to produce the said sum of one hundred thousand pounds per annum. 12 V. c. 200, s. 1.

Moneys arising from the sale of lands, &c., to form part of said Common School Fund.

3. For the purpose of creating such Annual Income, the Capital of the said Fund shall from time to time remain or be invested in the Public Debentures of this Province, or in the Debentures of any Public Company or Companies in the Province, incorporated by Act of the Legislature for the construction of Works of a public nature, and which having subscribed their whole Capital Stock, have paid up one half of such Stock and completed one half of such Work or Works;

The said Fund to be invested in Provincial Debentures, &c., for the purpose of creating an annual income.

And the said Fund and the Income thereof shall not be alienated for any other purpose whatever, but shall remain a perpetual Fund for the support of Common Schools, and the establishment of Township and Parish Libraries. 12 V. c. 200, s. 2.

Fund and income not to be alienated for any other purpose.

Grant in aid of the said Fund. 4. For the establishment, support and maintenance of Common Schools in this Province, until the said Common School Fund produces a net yearly income of fifty thousand pounds or upwards, there shall be granted to Her Majesty, yearly, the sum of fifty thousand pounds, currency, and such sum shall be composed and made up of the annual income and revenue derived from the permanent fund hereinbefore mentioned, and of such further sum as may be required to complete the same, out of any unappropriated moneys raised and levied by the authority of the Legislature, for the public uses of this Province; and the said annual grant shall constitute the Common School Fund. 4, 5 V. c. 18, s. 3, *as amended by* 12 V. c. 200.

Annual Common school fund

Such grant to be apportioned between U. C. and L. C. 5. The said sum of fifty thousand pounds annually, shall from year to year, be apportioned by order of the Governor of this Province, in Council, between Upper and Lower Canada, in proportion to the relative numbers of the Population of the same, respectively, as such numbers shall, from time to time, be ascertained by the census next before taken in each of the said divisions, respectively. 7 V. c. 9, s. 1.

Grant out of the Provincial Revenue to cease after a certain time. 6. So soon as a net Annual Income of fifty thousand pounds shall be realised from the said Permanent Fund, the said grant out of the Provincial Revenue shall cease, and in the meantime the interest arising from the said Permanent School Fund shall be annually paid over to the Receiver General, and applied towards the payment of the yearly grant of fifty thousand pounds: But if in any year after the said annual sum of fifty thousand pounds is taken off the Consolidated Revenue, the income arising from the said Permanent Fund from any cause whatever falls short of the annual sum of fifty thousand pounds, then the Receiver General of the Province shall pay out of the said Consolidated Revenue such sums of money as are from time to time required to make up the deficiency, but such sums shall be repaid out of any excess of the Income of the said Permanent School Fund in any year over the said sum of fifty thousand pounds per annum. 12 V. c. 100, s. 4.

Grant to make up deficiency in any year.

A certain sum may be reserved out of the proceeds of school lands for public improvements in the county.

7. The Governor in Council may reserve out of the proceeds of the School Lands in any County, a sum not exceeding one fourth of such proceeds, and out of the proceeds of unappropriated Crown Lands in any County a sum not exceeding one fifth thereof,—such sums to be funds for public improvements within the County and to be expended under the direction of the Governor in Council. 16 V. c. 159, s. 14.

Accounts to be laid before parliament. Percentage of charges limited.

The particulars of all such sums, and of the expenditure thereof shall be laid before Parliament within the first ten days of each Session; and not exceeding six per cent. on the amount collected, including surveys, shall be charged for the sale and management of lands forming part of the One Million of Acres of Land set apart in the Huron Tract for the Common School Fund. 16 V. c. 159, s. 4.

CAP. XXVII.

An Act respecting the Geological Survey of the Province.

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

1. Out of the unappropriated public moneys of the Province, a sum not exceeding five thousand pounds shall be annually applied, for a term not exceeding five years from the 16th day of May, 1856, to defray the expenses of the Geological Survey or any arrears of expenditure theretofore incurred; which sum shall be paid at such times and in such manner as the Governor in Council may direct, subject to the provisions hereinafter made. 19, 20 V. c. 13, s. 1. Grant to defray the expenses of the Geological Survey.
2. The Governor in Council may employ a suitable number of competent persons to make and complete the Geological Survey of this Province, and to furnish a full and scientific description of its rocks, soils and minerals, which shall be accompanied with proper maps, diagrams and drawings and a collection of specimens to illustrate the same,—and may direct the publication of such maps and drawings as are deemed necessary to illustrate the same,—and may establish a Geological Museum at some convenient place, in which the said maps, drawings, diagrams and specimens shall be deposited as a Provincial collection, and which shall be open at all reasonable hours to the public, and shall be furnished with such books and instruments as may be necessary for the illustration of the science and the prosecution of the Survey,—and may order from time to time the distribution of the publications relative to the Survey and of duplicate specimens, to scientific institutions in this Province and other countries. 8 V. c. 16, s. 1,—and 19, 20 V. c. 13, s. 2. Governor in Council to employ competent persons to make and complete Geological Survey.
Geological Museum.
Distribution of publications to scientific institutions.
3. And further to promote the collection of geological information,—all persons who, after the first day of January, one thousand eight hundred and fifty-eight, apply to be admitted as Provincial Land Surveyors, shall be examined in the rudiments of Geology;—And the Director of the Geological Survey shall, with that object, be a member of each of the two Boards of Examiners of persons applying to be licensed as Surveyors, constituted by the *Act respecting Land Surveyors and the Survey of Lands.* 19, 20 V. c. 13, s. 3. Provincial Land Surveyors to be examined in Geology.
4. For the purpose of attaining an accurate basis from which the geological and topographical features of the country may be ascertained, and for the purpose of connecting together local and partial surveys,—the Director of the Geological Survey shall Director of Geological Survey to make permanent marks,

and to fix latitude and longitude and relative levels thereof. shall cause permanent marks in some public buildings, or other marks of a durable description, to be made at several convenient stations in the Province, and shall fix accurately the latitude and longitude and relative levels thereof, as points of reference. 19, 20 V. c. 13, s. 4. 5

Railway and Canal Companies to furnish to Geological Survey plans and sections of their Surveys. 5. All Railway and Canal Companies incorporated after the sixteenth day of May, 1856, shall furnish to the Geological Survey, without charge, certified copies of all plans and sections of their Surveys;—and all such Companies theretofore incorporated, shall furnish such plans and sections of their Surveys upon the demand of the Director of the Geological Survey, and at the cost of the same. 19, 20 V. c. 13, s. 5. 10

Director to make report annually to the Governor. 6. The Director of the Geological Survey shall make a report to the Governor, on or before the first day of March in each year, shewing, generally, the progress made in the Survey. 19, 20 V. c. 13, s. 5. 15

Moneys to be accounted for. 7. The due application of the moneys hereby appropriated shall be accounted for in the manner provided by the Interpretation Act, and an account thereof shall be laid before the Provincial Legislature at the next Session thereof. 19, 20 V. c. 13, s. 6. 20

CAP. XXVIII.

An Act respecting the Public Works.

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

ORGANIZATION OF THE DEPARTMENT OF PUBLIC WORKS.

1. For the superintendence and management of the Public Works of this Province, the Governor may appoint a Chief Commissioner and an Assistant Commissioner, who shall be styled Commissioners of Public Works, and shall have such powers as are vested in them by this chapter, and no other. 9 V. c. 37, s. 2. Two Commissioners of Public Works.
Their powers.
2. The Chief Commissioner for the time being, shall generally be the organ of the Commissioners, and all writings and documents signed and sealed by him and countersigned by the Secretary, and no others, shall be held to be acts of the said Commissioners : 9 V. c. 37, s. 17. What shall be deemed acts of the Commissioners.
- But all writings or documents which the said Commissioners may make, sign or execute in the name of Her Majesty, may be signed and sealed by the Assistant Commissioner, and countersigned by the Secretary, and shall be as valid as if signed and sealed by the Chief Commissioner. 10, 11 V. c. 24, s. 2. The Assistant Commissioner may sign documents, &c., executed in the name of Her Majesty
3. Inasmuch as the said Commissioners fulfil all duties and exercise all powers conferred upon them by law as the servants or agents of Her Majesty, and all property acquired by them is acquired for and vested in Her Majesty, and the said Commissioners are not by law clothed with any Corporate capacity,— Therefore, the said Commissioners cannot and shall not as such Commissioners sue or be sued or impleaded in any Court of Law or Equity in this Province, for any cause whatever. 13, 14 V. c. 13, s. 8, *except the Provisoers.* Commissioners not to be sued.
4. Whenever it becomes necessary to resort to any legal proceedings before any Court of Law or Equity, for enforcing performance of any contract or obligation made or entered into by any person with the said Commissioners, or for any other purpose connected with the duties and powers conferred upon the said Commissioners, proceedings shall be instituted in the name of Her Majesty's Attorney General or Solicitor General for that part of the Province in which such proceedings are had, for and in behalf of Her Majesty. 13, 14 V. c. 13, s. 9. Legal proceedings to be in the name of the Attorney or Solicitor General.
5. The office of the Commissioners shall be at such place as the Governor may from time to time appoint, and such office shall Office of the Commissioners shall

ners, and times of meeting. shall be the place of meeting of the Commissioners,—and they shall hold their meetings for the transaction of business at such stated periods as the Governor may appoint, and at such other times as the Governor may specially direct, and at any time to which they may adjourn from any regular special or adjourned meeting. 9 V. c. 37, s. 6. 5

Where notice to the Commissioners may be served. 6. Notice of any proceeding under this Chapter or any former Act, shall be given to the said Commissioners at their Office, if such notice relates to a proceeding in that one of the two sections of the Province, known as Upper Canada and Lower Canada, in which such Office is then situate,—but if it relates to a proceeding in the other section of the Province, such notice shall be served at some place which shall be appointed by the said Commissioners as their domicile elect for such other section of the Province :—And the said Commissioners shall give notice of the election of such domicile by inserting an advertisement once every month in the *Canada Gazette*, specifying the place where they have elected the same. 13, 14 V. c. 13, s. 14. 10 15

Secretary to be appointed. Commissioners and Secretary removable at pleasure. Governor to appoint Engineers, &c. 7. The Governor may appoint a proper person to be Secretary for the Public Works,—and may, at his pleasure, remove the Commissioners and Secretary or either of them, and appoint others in their stead, or may reinstate those removed ;—and the Governor may appoint all Engineers, Superintendents, and other Officers for the construction, maintenance and repair of such works and buildings. 9 V. c. 37, s. 3. 20 25

Duties of Secretary. 8. It shall be the duty of the Secretary, with such assistance as may be authorized by the Governor in Council,—to keep separate accounts of the moneys appropriated for and expended on each public work,—to submit the said accounts to be audited in such manner as may be appointed for that purpose by the Governor in Council,—to have charge of all plans, contracts, estimates and documents, models or other things relative to any such work,—to keep regular accounts with each contractor or other person employed by the said Commissioners,—to see that all contracts made with the said Commissioners are properly drawn out, and executed,—to draw all certificates upon which any warrant is to issue,—to prepare all reports to be submitted to the Commissioners,—and to receive and answer, according to the instructions he may receive from the Commissioners, all letters to or from them or other persons on the business of the Department,—to keep minutes of all their proceedings,—to keep copies of all correspondence,—to have the general superintendence of all other matters, and things which he may be instructed to superintend by the Commissioners,—and generally to do all ministerial acts connected with the business of the Commissioners which they direct him to do or which devolves on him by a fair construction of the meaning of this Chapter in all cases not expressly provided for : 30 35 40 45

Accounts. Plans. Contractors and contracts. Certificates for warrants. Reports. Correspondence. Minutes of proceedings. General superintendence and duties. And

And the Governor may require any person having in his possession any instruments, plans, papers, books, drawings, models, estimates, or documents relative to any public work and belonging to the Province, to deliver the same to the said Secretary, and may also from time to time place in his charge and keeping, for the use of the Commissioners, any instruments, books, drawings, models or documents relative to the objects for which the said Commissioners are appointed and required for the better attainment of the objects of this Chapter. 9 V. c. 37, s. 32.

The Governor may cause plans, &c., relative to public works to be placed under the care of the secretary.

9. The said Commissioners and Secretary shall receive a yearly salary, and their actual disbursements and travelling expenses, when away from their place of residence on the duties of their offices, and shall devote their whole time to the business of their offices, and shall not exercise any other profession or calling. 9 V. c. 37, s. 4.

Commissioners and secretary to be paid a salary, &c., and to devote all their time to their duties.

10. Nothing in this Chapter shall authorize the expenditure of any greater sum of money in the payment of the yearly salaries of Commissioners or Secretary, or of their travelling expenses or actual disbursements, than is provided for by the Act respecting the Governor, Civil List, and certain Public Officers. 9 V. c. 37, s. 38.

This chapter not to authorize the payment of a greater sum for certain purposes than is authorized by 10.

FUNCTIONS OF THE DEPARTMENT, AND WORKS UNDER ITS MANAGEMENT.

11. The several Public Works and Buildings enumerated in the Schedule to this chapter marked A, and all materials and other things belonging thereto, or prepared and obtained for the use of the same, shall be and are hereby vested in Her Majesty, and under the management of the said Commissioners for the purposes of this Chapter; And the Governor in Council, may from time to time, by Proclamation declare any other works or buildings constructed at the Public expense, to be Works or Buildings subject to the provisions of this Chapter and under the management of the said Commissioners:

Public works in Schedule A. and materials for the same, to be vested in Her Majesty, and under the control of the Commissioners, and others may be made so by proclamation.

2. All contracts, agreements or leases for any such work, or for any tolls for the same, entered into by the late Board of Works, or by any Commissioners duly authorized to enter into the same, shall enure to the use of Her Majesty, and may be enforced as if entered into with Her Majesty. 9 V. c. 37, s. 23, except the Proviso.

Contracts for leases of works or tolls made by the board of works to enure to Her Majesty.

12. All lands, streams or water courses and other real property, acquired for the use of such Public Works, shall be vested in Her Majesty, for the purposes of the said works; and when not required for the said works, they may be disposed of under the authority of the Governor in Council, and the proceeds shall be accounted for as public moneys; And all hydraulic powers

Property acquired for the use of provincial works to be vested in the Crown.

And hydraulic powers.

Governor in Council may dispose of such property as may not be required.

powers created by the construction of any public work, or the expenditure of any public moneys thereon, shall be vested in Her Majesty, and any portion thereof not required for the Public Works may be disposed of under the authority of the Governor in Council, by sale or lease, and the proceeds shall be accounted for as public moneys. 9 V. c. 37, s. 13,—and see sections 28 and 64 of this chapter, enabling the Commissioners to dispose of land, &c., near the Public Works in certain cases.

This chapter to apply, &c.

13. This Chapter shall apply to Public Works constructed or completed after it comes into force, or for which appropriation is made after that time, unless it be otherwise provided by law. *Present Law.* See 9 V. c. 37, ss. 7, 13, and Schedule A,—also 19, 20 V. c. 19 s. 1, &c.

Of what public works the Commissioners shall have the management.

14. The said Commissioners shall have the superintendence and management of constructing, maintaining and repairing all canals, harbours, roads or parts of roads, bridges, slides, and other Public Works or buildings in progress, or constructed or maintained at the public expense out of the Provincial funds, and which under this chapter will be placed under their management and control; but nothing in this chapter shall give authority to the said Commissioners to cause expenditure on any work, not previously sanctioned by the Legislature. 9 V. c. 37, s. 7.

Expenditure to be sanctioned by legislature.

Application for expenditure on any public work to be referred to the Commissioners.

15. In all cases of application to the Government or to the Legislature, by individuals or bodies corporate, for an appropriation for or expenditure upon any work proposed by them to be undertaken at the public expense,—detailed plans, surveys and estimates thereof shall be forwarded by the party so applying to the said Commissioners, to enable them to report thereon in a satisfactory manner for the information of the Governor and of the Legislature;—And in case the plans, surveys and estimates so sent are not found sufficient, the party so applying shall, prior to any action of the Commissioners thereon which would be attended with expense, enter into bonds to bear the costs attendant upon the providing of such further survey, examination and details as the Commissioners deem requisite to be made either by their own officer or otherwise: but every such reasonable expense shall be refunded to the party if the Legislature makes an appropriation for such work. 9 V. c. 37, s. 15.

Security to be given for necessary expenses of survey, &c., if found requisite.

Maps and plans of work to be submitted to the Governor.

16. The said Commissioners shall lay before the Governor the maps and estimates of any works suggested by them for the consideration of the Legislature, and of which maps and estimates have been prepared by order of the Governor in Council; and in the construction of these and of all other Public Works approved of and provided for by the Legislature, the said Commissioners shall not depart, in any case, more than one mile

Commissioners not to de-

5 mile from the line or lines delineated on the maps or plans of such works approved by the Legislature, such deviation being first submitted to and approved by the Governor in Council. 9 V. c. 37, s. 16, as amended by 10, 11 V. c. 24, s. 10.

part from the line shewn in any such map, approved by the Legislature, more than one mile.

10 17. No public money appropriated for any public work or building shall be expended except under the control and superintendence of the said Commissioners,--except only, that whenever any money has been appropriated by any Act of the Legislature for making or improving any road or highway, the Commissioners may in their discretion intrust the whole or part of such appropriation to the Municipal Councils of the Municipalities through which such road or highway passes, to be appropriated by such Councils in the manner and for the purposes by law provided. 9 V. c. 37, s. 22, as amended by 13, 14 V. c. 13, s. 16.

No money for any public work, or building to be expended except under the Commissioners.

Commissioners may allow certain moneys to be expended by the Municipal authorities.

20 18. No warrant shall be issued for any sum of the public money appropriated for any public work under the management of the said Commissioners, except on the certificate of the Chief Commissioner, or in his absence, of the Assistant Commissioner, that such sum ought to be paid to the person named in the certificate, in whose favour a warrant may then issue. 9 V. c. 37, s. 35.

On what certificate warrants may issue for the payment of moneys for public works.

25 19. The Chief Commissioner may from time to time grant certificates in favor of the Secretary, for sums necessary to meet any disbursements allowed to him or the other Commissioner when on duty, or which the Commissioners may order to be made immediately by the Secretary, in any report approved by the Governor; but the sum which shall at any one time be in the hands of the Secretary shall in no case exceed five hundred pounds. 9 V. c. 37, s. 36.

Money to a certain amount may be advanced to the Secretary.

35 20. The said Commissioners may, by writing under their hands and seals, on behalf of the Province, and as hereinafter mentioned, enter into all necessary contracts, agreements and arrangements with any person relative to the Public Works of this Province, and the construction and repairs thereof, and the real property required for the same; And all contracts entered into by and with the Board of Works, before the ninth day of June, 1843, shall have effect, as if they had been entered into by and with the said Commissioners, and all rights acquired by the Board of Works under any such contract shall be vested in Her Majesty, subject to the provisions of this chapter. 9 V. c. 37, s. 5.

Commissioners may enter into contracts on behalf of the Province relative to public works.

How contracts made with the former Board shall be construed hereafter.

45 21. All contracts, agreements, bargains, sales or leases to be made or entered into by the Commissioners for or relating to any public work, or any land or real or personal property, or hydraulic or other privilege, or any other thing concerning which any

Future contracts, &c, under the control of the Commissioners power

ers to be made in the name of Her Majesty. power is vested in the said Commissioners or in Her Majesty, under this chapter, shall be made and entered into in the name of Her Majesty, and not otherwise ;

Proviso: former contracts, &c., shall be valid, whether made in the name of Her Majesty or of the Commissioners. Provided, that all such contracts, agreements, bargains, sales or leases concerning any of the matters hereinbefore mentioned as have been made by the said Commissioners under any law then in force, shall be valid to all intents whether the same were made and entered into in the name of the Commissioners of Public Works, or in the name of Her Majesty, Her Heirs and Successors. 10, 11 V. c. 24, s. 1.

The Commissioners may require accounts to be attested on oath and may administer such oath. 22. The Commissioners may require any account sent in by any contractor, or any person in their employ, to be attested on oath, which oath, as well as that to be taken by any witness, the Secretary or either of the Commissioners may administer. 9 V. c. 37, s. 34.

The Commissioners may send for persons and examine them on oath touching matters referred to them. Penalty for non-attendance. 3. The Commissioners may send for and examine, on oath, all such persons as they deem necessary, touching any matter upon which the action of the Commissioners is necessary, and may cause such persons to bring with them such papers, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, at the discretion of the Commissioners ; And such persons shall attend at the summons of the Commissioners, after due notice, under the penalty of five pounds. 9 V. c. 37, s. 33.

Annual report to be made and laid before the Legislature. 24. The Commissioners shall make and submit to the Governor in Council, an Annual Report on all the works under their control, to be laid before both Houses of the Legislature, within twenty-one days from the commencement of each session, showing the state of each work, and the amounts of each receipt and expenditure thereon, with such further information as may be requisite :

Minutes of proceedings and reports to be duly entered. 2. And the Commissioners shall have the minutes of all their proceedings and reports duly entered, and shall report upon all matters referred by the Provincial Government, connected with the objects for which the said Commissioners are appointed, and shall obtain all such evidence and information, plans, estimates, drawings or specifications, and cause such surveys, visits and examinations to be made, and do all such acts as are necessary to enable them to report ;

Security to be taken for the due performance of the work, &c. 3. And the said Commissioners, in all cases where any Public Work under their management is being carried on by contract, shall take all reasonable care that good and sufficient security be given to and in the name of Her Majesty, for the due performance of the work within the amount and time specified for its completion ; And also in all cases where it seems to the Commissioners that

Contract not always to the lowest bidder.

to be expedient to let such work to the lowest bidder, it shall be their duty to report the same, and obtain the authority of the Governor in Council previous to passing by such lowest tender ;

4. And it shall further be the duty of the said Commissioners to suggest to the Governor in Council such Public Works or improvements as can in their judgment be undertaken with advantage to the Province: Provided always, that in no case shall any expense beyond the amount of one hundred pounds be incurred or authorized by the said Commissioners with regard to any matter or matters referred to them, or suggested by them, unless with the approval of the Governor in Council. 9 V. c. 37, s. 14.

To suggest to the Governor advantageous public works. Proviso.

25. The said Secretary shall make up detailed accounts of the expenditure of all moneys advanced or paid under certificates of the Commissioners, showing the sum appropriated for each public work, the sum so paid or advanced, and the balance if any remaining unexpended, and in whose hands; And each account shall be accompanied by vouchers, corresponding with the numbering of the items of such account, and shall be made up to and closed on the first day of January and the first day of July, in each year, and shall be attested before a Judge of one of the Superior Courts of Law, or before some Justice of the Peace, and shall be transmitted to the Inspector General, within one month, after the said periods respectively. 9 V. c. 37, s. 37.

Detailed accounts of the moneys advanced or paid for any public work to be made up by the secretary. Accounts to be accompanied by vouchers, and to be attested.

26. The due application of all moneys expended by or under the superintendence of the said Commissioners shall be accounted for in the manner provided by the *Interpretation Act*. 9 V. c. 37, s. 40.

Accounting clause.

TAKING LANDS, AND OTHER POWERS IN THE CONSTRUCTION OF PUBLIC WORKS.

27. The said Commissioners may authorize their engineers, agents, servants and workmen to enter into and upon any ground to whomsoever belonging, and to survey and take levels of the same, and to make such borings, or sink such trial pits, as they may deem necessary for any purpose relative to the works, under their management ;

Commissioners may enter on property to make surveys, &c.

35. And the said Commissioners may at all times acquire and take possession of all lands or real estate, and may take possession of all streams, waters and water courses, the appropriation of which for the use, construction and maintenance of such Public Works, is in their judgment necessary ;--and they may for that purpose contract and agree with all persons, Seigniors, bodies corporate, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on behalf of those whom they represent, whether infants, (minor children,) absentees, lunatics, femmes-covert, or other persons

And may take lands, streams, &c., for public works.

And may contract and agree with all persons, &c., for that purpose,—otherwise, incapable of contractin .

persons otherwise incapable of contracting, possessed of or interested in such lands, real property, streams, waters and water courses, and all such contracts and agreements, and all conveyances or other instruments made in pursuance thereof, shall be valid to all intents. 9 V. c. 37, s. 8—part.

Commissioners empowered to take lands, streams, &c., in certain cases ;

28. The said Commissioners, for and in the name of Her Majesty, may acquire and take possession of any lands or real estate, streams, waters or water courses adjoining or lying in the neighbourhood of any public work, and which they deem requisite for the enlargement or improvement of such work, or for obtaining better access thereto ; And to enable them to acquire and take possession of such lands or other property, the said Commissioners shall have all the powers and rights conferred upon them by the next preceding section for the purpose of enabling them to acquire such lands or real estate, streams, waters and water courses as are contemplated by the said section, and to take possession of them whenever the owners or occupiers thereof refuse or fail to agree with the Commissioners for the purchase thereof ; And the said Commissioners may, whenever they deem it expedient, sell and convey to any person or body corporate, any land or other real estate which they have under their control and which is not required for the use of any such Public Work ; the proceeds of all which sales shall by the said Commissioners be accounted for in due course of law. 13, 14 V. c. 13, s. 1—See also sects. 12 and 64 of this chapter.

And may alienate the same when no longer necessary.

Commissioners may take materials from off any land.

Compensation to be made.

Commissioners may make and use roads from their works to such materials.

29. The said Commissioners and their agents, may take from all uncleared or wild land, all stones, gravel, sand, clay, or other material they find necessary for the construction, maintenance or repair of Public Works or buildings under their management, for which compensation shall be made at the rate agreed on or appraised and awarded as herein provided ;— And the said Commissioners may make and use all such temporary roads to and from such stones, clay, gravel, sand or gravel pits, required by them for the convenient passing to and from the works during their construction or repair. 9 V. c. 37, s. 11.

Compensation for damages to be paid within four months.

30. The compensation agreed on between the parties, or appraised and awarded in the manner hereinafter set forth, shall be paid for such lands, real property, streams, waters and water courses, or damages, to the owners or occupiers of such lands or property, or to the persons suffering such damage as aforesaid, within four months after the amount of such compensation has been agreed on or appraised and awarded :

When the owner refuses to convey his estate, &c.

2. Where any such owner or occupier refuses or fails to agree for conveying his estate or interest in any land, real property, streams or water courses as aforesaid, the Commissioners may tender the reasonable value in their estimation of the same, with

with notice that the question will be submitted to the Arbitrators hereinafter mentioned ; and in every case, within three days after such agreement or tender and notice, the Commissioners may authorize possession to be taken of such land, real property, streams or water courses so agreed or tendered for;

Commissioners may take possession.

3. If the owners of such land, real property, streams or water courses do not reside in the vicinity of such property so required, then notice shall be given in the *Canada Gazette*, and in two distinct newspapers published in or adjoining the District or County in which such property is situate, of the intention of the Commissioners to cause possession to be taken of such lands, or real property, streams or water courses, and after thirty days from the publication of the last notice, possession may be taken accordingly ;

When the owner does not reside in the vicinity of the property, &c.

4. All land, real property, streams or water courses, contracted for, purchased, or otherwise acquired by the said Commissioners in manner aforesaid, shall be vested in and become the property of Her Majesty, and the respective conveyances thereof, not being notarial deeds, shall be brought to and recorded and enrolled in the office of the Registrar of this Province, but being so enrolled, or being notarial deeds, need not otherwise be made by matter of record ; and such conveyances may be accepted by the said Commissioners on behalf of the Crown. 9 V. c. 37—part of s. 8.

All property purchased to be vested in Her Majesty.

21. The said Commissioners may discontinue or alter any part of a public road, where it is found to interfere with the proper line or site of any such Public Work as aforesaid ;— But before discontinuing or altering such public road, they shall substitute another convenient road in lieu thereof ; and the land theretofore used for any road, or part of a road, so discontinued, with the sanction of the Governor in Council, shall thereafter become the property of the owner of the land of which it originally formed part :

Commissioners may discontinue part of a public road on substituting another.

2. And as to the roads discontinued and replaced by roads made under the control of the Board of Works, before the ninth day of June 1846, such roads shall become the property of the owners of the land of which they originally formed part, and shall not be used as public roads, except such parts of the said roads so discontinued as were set apart by the Board of Works for the use of the public,—and also such other parts thereof as may be required by the owners of such property to reach the new roads substituted for such old roads ;—But such roads or parts of roads shall not be made use of to avoid the payment of tolls. 9 V. c. 37, s. 10.

Road discontinued to become part of the land it was originally taken from.

Provision as to roads discontinued before 9th June, 1846, under authority of Board of Works.

22. The said Commissioners shall either construct back ditches or drains for carrying off the water accumulating behind the banks of all Public Canals under their management or pay a

Commissioners to make drains in certain cases.

Fences, drains and ditches to be kept in repair by parties interested.

a reasonable compensation to the owners of the Lands injured by the accumulation of such water; And whenever the said Commissioners have constructed any such ditches or drains, and whenever they have put up any fence dividing the property of private individuals from any bridge, canal or other work constructed at the public expense, the said Commissioners and the Government of the Province, shall be forever released from all obligation in regard to such fences, ditches or drains, which shall thenceforward be maintained, repaired and renewed, when necessary, by the adjoining proprietors, who shall be alone liable for any damages arising out of the disrepair of any such fences, ditches or drains;

Such parties may claim compensation in certain cases.

But whenever the provisions of this chapter have the effect of imposing upon any person any liability beyond what would have otherwise fallen upon him in regard of such fences, ditches or drains, such person may by one claim filed in the manner and time required by this chapter, demand compensation for all losses, injuries and expenses accrued or incurred or which thereafter might accrue or be incurred to and by himself, his heirs, assigns and legal representatives, by such additional liability, and the Arbitrators in all such cases may award such compensation as they deem sufficient to cover all such losses, injuries and expenses for the future as well as for the past.

14 V. c. 13, s. 7.

Walls, &c., taken down in executing public works to be replaced by the Commissioners.

How to be kept up afterwards.

33. Whenever it is necessary in the prosecution of any public work, for the said Commissioners, or their contractors or servants, to take down or remove any wall or fence of any owner or occupier of lands or premises adjoining such public work, the Commissioners or contractors, or their authorized servants, shall replace the same as soon as the necessity which caused their being taken down or removed has ceased, and after the same have been so replaced, the owner or occupier of the said lands or premises shall maintain such walls or fences, to the same extent as such owner or occupier might be by law required to do, if the same had never been so taken down or removed.

10, 11 V. c. 24, s. 6.

OFFICIAL ARBITRATORS.

Governor in Council to appoint three arbitrators for Lower and three for Upper Canada.

Their duties.

34. The Governor in Council shall, from time to time, appoint three proper persons who shall be Arbitrators and Appraisers for Lower Canada, and also three proper persons who shall be Arbitrators and Appraisers for Upper Canada, who shall, within the portions of the Province for which they are appointed, arbitrate on, appraise, determine and award the sums which shall be paid to any owner, occupier or person representing such owner for the land or real estate taken either in perpetuity or temporarily for the use of the said public works, or any of them, or as compensation for any loss or damage accruing to them from such public works, or any of them, and with whom

whom the said Commissioners have not agreed, and cannot agree. 9 V. c. 37, s. 24.

35. The said Arbitrators shall take, before the said Chief Arbitrators to be sworn. Commissioner, or some one of Her Majesty's Justices of the Peace, the following oath :

" I, A. B., do swear that I will well and truly hear, try and examine into such claims as may be submitted to me for compensation for land or real property proposed to be taken possession of for the use and purposes of (*or as the case may be,*) and that I will also well and truly examine into such claims for compensation for damages consequent upon the construction of the said work ; and that I will give a true judgment and award thereon to the best of my knowledge and ability ; and that in determining such award I will take into due consideration the benefits to be derived to the persons making such claims as aforesaid, as well as the injury done thereby. So help me God." 9 V. c. 37, s. 27.

36. The remuneration of the said Arbitrators shall in all cases be fixed at twenty shillings for each day of attendance upon any arbitration, together with travelling expenses at ten shillings per diem, while engaged in going to, remaining at and returning from the place where the arbitration is held. 10, 11 V. c. 24, s. 3--*the end.*

37. The Governor shall appoint a proper person to act as Clerk to the said Arbitrators for Lower Canada, and another to act as Clerk to the Arbitrators for Upper Canada ; and may remove such Clerks and appoint others whenever he sees fit ; And each of the said Clerks shall be allowed the sum of Fifteen Shillings for every day of his attendance to his duties as such. 13, 14 V. c. 13, s. 10--*the end.*

WHAT CASES MAY BE REFERRED TO THE SAID ARBITRATORS.

38. If any person or body corporate has any claim for property taken, or for alleged, direct or consequent damages to property, arising from the construction or connected with the execution of any public work undertaken, commenced or performed at the expense of this province, or of either of the late Provinces of Upper or Lower Canada, or any claim arising out of or connected with the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract for the performance of any such public work, made and entered into with the said Commissioners, or either of them, either in the name of Her Majesty, or in any other manner whatsoever, or with any other Board, or any other Commissioners lawfully authorized to enter into the same on behalf of this Province, or either of the said Provinces of Upper or Lower Canada,--such person or body corporate may give notice

Their oath.

The arbitrators to have twenty shillings per diem, and travelling expenses.

Clerks to be appointed.

Their remuneration.

If any party, having a claim of any kind for damages arising from any public work, or out of any contract, with regard to any such work, shall bring such claim before the Commissioners,—

The Commissioners may within thirty days, tender such amount as they may think sufficient.

If not accepted the claim shall be submitted to the arbitrators.

What shall be a tender under this Act.

Claimants to give security for the costs of arbitration, to the satisfaction of the arbitrators.
Costs, how to be taxed.

Claims for land or damages, or arising out of contracts, to be filed within a certain time.

Time and place of arbitration.

notice of such claim to the said Commissioners, stating the particulars thereof, and how the same has arisen ;--And thereupon the Commissioners may at any time within thirty days after such notice, tender what they consider a just satisfaction for the same, with notice that the said claim will be submitted to the decision of the Arbitrators acting under this chapter, unless the sum so tendered is accepted within ten days after such tender, which shall be deemed to be legally made by any written authority for the payment of such sum given under the hand of the said Commissioners or either of them, and notified to the person or body corporate having such claim ;--And a tender so made shall be sufficient likewise in all cases of tender of compensation by the Commissioners under any provision of this chapter :

But before any claims either under this section or under any other section of this chapter, shall be arbitrated upon, the claimant thereof shall give security to the satisfaction of the Arbitrators or any two of them, for the payment of the costs and expenses incurred by the arbitration, in the event of the award of the Arbitrators being against such claimant, of its not exceeding the sum so tendered as aforesaid. 10, 11 V. c. 24, s. 3--part.

39. No claim for land or other property alleged to have been taken for or injured by the construction, improvement, maintenance or management of any public work, or for damages alleged to have been occasioned directly or indirectly to any such land or other property by the construction, maintenance, or management of any such public work,--and no claim arising out of or connected with the execution of any contract or agreement for the performance of any such public work or of any part thereof,--shall be entertained by the Arbitrators under this chapter, unless such claims and the particulars thereof have been filed at the office of the Commissioners,--within six calendar months next after the loss or injury complained of, when such claim relates to the taking of or damage occasioned to land or other property,--And when such claim relates to or is alleged to arise out of the execution or fulfilment of any contract or agreement for the construction of any public work, unless the same has been filed at the said office, within three calendar months next after the date of the final estimate made under such contract : But nothing herein contained shall prevent the Arbitrators from entertaining, investigating or awarding upon any claims filed within the delay allowed by any Act then in force. 13, 14 V. c. 13, s. 2.

40. Whenever the Commissioners cannot effect an amicable settlement of any such claim, they shall refer the same to the said Arbitrators within sixty days from the filing thereof ; and the said Arbitrators shall proceed to investigate and make their award thereon, at such time and place as the Commissioners appoint. 13, 14 V. c. 13, s. 3.

41. If any claim arises against the said Commissioners of a nature different from those described in this chapter, which the Commissioners are unable to settle amicably, then such claim (unless the same be made for salary, wages or allowances, by any subordinate officer or person in the employ of the Commissioners) shall be referred to the said Arbitrators, who shall investigate and give their award upon such disputed claim, in like manner as provided for their award upon other claims: But no such disputed claim shall be entertained by the Arbitrators, unless the same, with the particulars thereof, has been filed at the office of the Commissioners within six calendar months after the same arose. 13, 14 V. c. 13, s. 8—*part.*

All disputes may be referred to the arbitrators.

But such claim must have been filed within six months after it arose.

POWERS OF THE SAID ARBITRATORS, AND PROCEEDINGS BY OR BEFORE THEM.

42. The said Arbitrators may, by summons or order in writing, to be left at the last usual place of residence of the party to whom it is addressed, command the attendance from any part of the Province of all witnesses or the production of any documents required by any of the parties, and may swear the said witnesses to testify truly respecting the matters on which they are to be interrogated;—And the disobedience of such summons or order in writing, or neglect to attend and produce such documents, or the refusal to answer any lawful question, shall subject the party disobeying, neglecting or refusing, to a penalty of not less than one pound nor more than five pounds, to be recovered before any Justice of the Peace, and levied under the warrant of such Justice, by distress and sale of the goods and chattels of the offender unless the party establishes reasonable cause for such disobedience, neglect or refusal:

Arbitrators to have powers to summon witnesses, and to swear them.

Penalty for refusing to obey summons.

2. But no person shall be compelled to produce any document that he would not be compelled to produce at a trial in the Queen's Bench, Common Pleas or Superior Court, or to attend as a witness more than two consecutive days; and each of the said witnesses shall be allowed a sum not exceeding five shillings a day, at the discretion of the said Arbitrators; and such remuneration shall be paid by the party requiring his attendance. 9 V. c. 37, s. 28, amended by 14, 15 V. c. 53, s. 4.

What documents witnesses may be compelled to produce.

Payment of witnesses.

43. The said Arbitrators shall consider the advantage as well as disadvantage of such public work, as respects the land or real estate of any person through which the same passes or to which it is contiguous, or as regards any claim for compensation for damages brought before them;—And the said Arbitrators shall, in assessing the value of any land or real estate, proposed to be taken for the purposes of any such public work, or in estimating and awarding the amount of damages to be paid by the said Commissioners to any person, take into consideration the advantages likely to accrue as well as the injury or damage occasioned

Arbitrators shall consider the advantages as well as disadvantages of any work to the party claiming damages.

- But no party to pay any sum to the Commissioners for such advantages. occasioned by reason of such work :--But the Arbitrators shall not in any case award that any sum be paid by any person to the said Commissioners, on account of any such advantages. 9 V. c. 37, s. 29.
- Rules to be observed by the arbitrators in estimating the value of lands taken, &c. **44.** The said Arbitrators in estimating and awarding the amount to be paid to any claimant for injury done to any land or real property, and in estimating the value of lands taken by the said Commissioners under this chapter or any former Act, shall estimate or assess such land or real property in accordance with the value thereof at the time when the injury complained of was occasioned, and not according to the value of the adjoining lands at the time of making their award. 13, 14 V. c. 13, s. 5. 5
- Arbitrators to be bound by the stipulations of any contract. **45.** The said Arbitrators, in investigating and awarding upon any claim arising out of any contract in writing, shall decide in accordance with the stipulations in such contract, and shall not in any case award compensation to any claimant on account of his having expended larger sums of money in the performance of any work than the sums for which he contracted to perform such work ; nor shall they award to such claimant any interest upon any sum of money which they consider to be due to such claimant in the absence of any contract in writing, stipulating payment of such interest ;--And no clause in any such contract in which any drawback or penalty is stipulated for the non-performance of or neglect to complete any public work, or to fulfil any covenant in such contract shall be considered as comminatory, but shall be construed as importing an assessment by mutual consent of the damages arising out of such non-performance or neglect. 13, 14 V. c. 13, s. 6. 15
- As to interest. **46.** The said Arbitrators, in investigating any claim, shall cause all legal evidence offered on either side, to be taken down and recorded in writing, and shall make a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during any such investigation. 13, 14 V. c. 13, s. 10--*part.* 20 35
- Penalties not to be deemed comminatory. **47.** The award of a majority of the said Arbitrators shall in all cases, be binding as if made by all the Arbitrators. 10, 11 V. c. 24, s. 3--*part.* 10 11
- Arbitrators to take evidence in writing, &c. **48.** The said Arbitrators shall furnish the Commissioners with a copy of their award, and a copy thereof to each individual as far as relates to his particular claims, within one month after each decision, in order that the amounts awarded may be paid by the Commissioners, within four months thereafter. 9 V. c. 37, s. 31. 40
- Award of two arbitrators to be valid. **49.** The said Clerks to the Arbitrators shall deliver to any person requiring the same, certified copies of any depositions or papers. 45
- Arbitrators to furnish copies of their awards in order that the sum awarded may be paid.
- Clerks to furnish copies of papers.

papers taken or filed before the Arbitrators: And before delivering any such copies, the Clerk shall be entitled to payment at the rate of six pence for every hundred words contained in the same, and one shilling additional for any certificate. 13, 14 V. c. 13, s. 11. Payment for the same.

50. If the sum awarded exceeds the sum tendered, the Commissioners shall pay the costs of arbitration, but if not, the costs shall be paid by the person who refused the tender made by the Commissioners: 9 V. c. 37, s. 8—*part*. As to costs of arbitration.

10 2. And such costs shall in other cases when the award is in favor of such claimant, be paid by the said Commissioners in addition to the sum awarded, and shall in either case be taxed by the proper officer of the Court of Queen's Bench or Common Pleas, in Upper Canada and in Lower Canada by a Judge of the Superior Court; And in every case in which the claimant has been represented or assisted by an Attorney before the Arbitrators, the fees of such Attorney shall be taxed and allowed to him as in a contested case in the said Courts of Queen's Bench or Common Pleas, or in the said Superior Court, or in the Circuit Court or County Court, according to the sum awarded. 10, 11 V. c. 24, s. 3, *part, amended by* 14, 15 V. c. 53, s. 2. Costs to be taxed and how.

APPEALS FROM AWARDS IN LOWER CANADA.

51. Any Claimant dissatisfied with any award made by the said Arbitrators in Lower Canada, may appeal from such award by petition, addressed to the Superior Court, sitting in the District in which such award was made, praying such Court for reasons to be set forth in such petition, to revise and re-consider the same, and to set aside and annul the same, either wholly or in part, and if in part, stating what part, or to amend or reform the same; and Her Majesty's Attorney General or Solicitor General for Lower Canada, may appear to answer such petition for and on behalf of Her Majesty: Appeal given to either party from award of arbitrators.

2. And whenever the said Commissioners are dissatisfied with any award, Her Majesty's Attorney General or Solicitor General, may, by information on behalf of Her Majesty, apply in like manner, and for reasons to be set forth in such information, to set aside or annul such award, either wholly or in part, or to amend or reform the same; If the Commissioners are dissatisfied.

3. And such Court may either amend or reform such award or set aside and annul the same; and if such Court is of opinion that the Claimant in any such appeal is entitled to recover an amount of compensation larger than that awarded by the Arbitrators, the Claimant shall receive from the said Commissioners not only the amount of compensation specified in the judgment of the Court, but also such costs as the Court may award upon such appeal; and when in any such appeal Powers of the Court.

As to costs. appeal instituted by Her Majesty's Attorney General or Solicitor General, the Court sets aside or annuls any award, or diminishes the amount of compensation awarded to the Claimant, then the Court may award costs to Her Majesty. 13, 14 V. c. 13, s. 12.

Application must be made within four months. 52. No such award in Lower Canada shall be set aside unless the application to the Court is made within four months from the date of the award, nor unless notice of such Petition has been given at least twenty full days before the presentation of such Petition. 9 V. c. 37, s. 24, part, amended by 13, 14 V. c. 13, s. 13—part.

What evidence shall be admissible on appeal. 53. On every such appeal in Lower Canada, the Arbitrators shall produce before the Superior Court all evidence taken and recorded before them, and all plans, receipts, vouchers and other documents submitted to and filed before them in relation to such claim; And the said Court shall not allow any other evidence to be adduced upon any such appeal, except when the Arbitrators have rejected and refused to record evidence by law admissible. 13, 14 V. c. 13, s. 13—part.

SETTING ASIDE AWARDS IN UPPER CANADA.

The award of such arbitrators to be subject to the control of the Courts, as awards of other arbitrators. 54. In Upper Canada, all awards or decisions of the said Arbitrators shall be subject to the jurisdiction of the Superior Courts of Law or Equity, within the jurisdiction whereof the arbitration took place, in like manner and to the same extent, and under the same regulations as apply to arbitrations under the submission of the respective parties,—except that no such award shall be set aside unless the application to the Court is made within one year from the date of the award. 9 V. c. 37, s. 24—part.

ARBITRATION IN CERTAIN SPECIAL CASES.

Arbitrators may be appointed otherwise than as before mentioned. 55. The Commissioners of Public Works, if they deem it expedient, and when thereunto required by the parties bringing claims in any of the cases before mentioned, may refer the said claims or any of them to Arbitrators other than the said Official Arbitrators, which Arbitrators shall be appointed in the manner following:

Made in which arbitrators may be appointed. 2. The claimant shall appoint one Arbitrator, the Chief Commissioner or Assistant Commissioner of Public Works shall appoint another, and the said two Arbitrators shall appoint a third, and in case of disagreement the said third Arbitrator shall be appointed by a Judge of any Court of Record upon the request of the said two Arbitrators;

Their powers. 3. And the said three Arbitrators shall have the same power for the examination and decision of any claim and for commanding the

the attendance of and summoning before them, hearing, swearing and examining witnesses, and requiring the production of all papers and documents, as the said Official Arbitrators have or might have. 16 V. c. 160, s. 1.

5 **56.** Every witness summoned neglecting or refusing to appear before the said Arbitrators, or to be sworn or to answer to any lawful question put to him, or refusing to produce the documents required of him, shall be liable to the penalty prescribed by the *forty-second* section of this chapter, in the same manner, and subject to the same exemptions and limitations, as in the said section provided, and the said penalty shall be recovered in the manner therein provided; and the said witnesses shall be entitled to be taxed in the manner therein also provided. 16 V. c. 160, s. 2. Penalties on witnesses not attending, &c.

15 **57.** The claimant shall give security to the satisfaction of the Arbitrators under the two next preceding sections, in the cases provided, and in the manner and for the purposes mentioned in the *thirty-eighth* Section of this chapter. 16 V. c. 160, s. 3. Claimants to give security.

20 **58.** The award of the said Arbitrators, or a majority of them, shall be final and without appeal, in all cases in which the claim submitted to them does not exceed Fifty Pounds; and in any case in which the claim exceeds Fifty Pounds, their award shall be subject to and governed by all the provisions contained in the fifty-first, fifty-second, fifty-third and fifty-fourth sections of this Chapter, with respect to the setting aside or confirming of the awards therein mentioned. 16 V. c. 160, s. 4. Awards, when to be final, and when subject to revision.

25 **59.** The costs for any arbitration under section *fifty-five* of this Chapter, shall be borne and paid in the manner provided by the *fiftieth* section of this Chapter, and taxed in the manner provided by the said Section, and the remuneration of the said Arbitrators shall be the same as that fixed for the Official Arbitrators. 16 V. c. 160, s. 5. Costs by whom to be paid. Remuneration of arbitrators.

CONFIRMATION OF TITLE TO REAL PROPERTY IN LOWER CANADA.

30 **60.** In Lower Canada, the compensation awarded by Arbitration, or agreed upon by the Commissioners and any party who could under this chapter validly convey the real estate, or lawfully in possession thereof as owner, for any real estate which might be lawfully taken under this chapter without the consent of the owner, shall stand in the stead of such land; and any claim to or hypothec or incumbrance upon such real property shall be converted into a claim to or upon the said compensation: In Lower Canada, the compensation shall stand in the stead of the property.

40 **2.** If the Commissioners believe that any such claim, hypothec or incumbrance exists upon the land, or if any party to whom the compensation or any part thereof is payable, refuses to Proceedings to be taken if the Commissioners to

have reason to think that hypothecs or claims exist.

What the notice to the Prothonotary shall contain in addition to the usual particulars.

Claims not filed, (including dower not open) to be forever barred.

Distribution to be ordered by the Court.

A guardian may be appointed to take possession of real property for the recovery of which an action is brought by the Crown.

to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or is unknown to the Commissioners, or if for any other reason the Commissioners deem it advisable—they may pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which the property lies, and may cause to be delivered to the said Prothonotary an authentic copy of the conveyance (or of the award if there be no conveyance, and such award shall thereafter be deemed to be the title of Her Majesty to the land therein mentioned), and proceedings shall be thereupon had upon application on behalf of the Crown for the confirmation of such title in like manner as in other cases of confirmation of title—except that in addition to the usual contents of the notice, the Prothonotary shall state that such title (that is the conveyance or award) is under this chapter, and shall call upon all persons entitled to, or to any part of the real estate, or representing or being the husband of any party so entitled, to file their oppositions for their claims to the compensation, or any part thereof;—and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the real estate or any part thereof, (including dower not yet open) as well as all hypothecs or incumbrances upon the same;—And the Court shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice appertain according to the provisions of this chapter and to law: and the costs of the said proceedings, or any part thereof shall be paid by the said Commissioners, or by any other party, as the Court deems it equitable to order.

3. And if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court may order a proportionate part of the interest to be returned to the Commissioners;—and if from any error, fault or neglect in prosecuting the said application for confirmation of title, such confirmation is not obtained until after the six months are expired, the Court shall order payment of interest to the party entitled thereto for such further period as may be right. 9 V. c. 37, s. 9.*

RECOVERING POSSESSION OF PUBLIC WORKS IN LOWER CANADA

61. Whenever an action is brought on behalf of the Crown to recover possession of any Pier, Road, Bridge, Building or other Public Work in Lower Canada, the Court before which the action is brought or any one of the Judges thereof, may order the Sheriff of the District to put the person or persons named for that purpose by the Attorney General, Solicitor General, or other Officer prosecuting such action and moving

* There seems to be some error as to the interest, which is not directed to be paid into Court.

or petitioning for such order, in possession of the Public Work designated in the action or in regard of which the action is brought, together with its appurtenances; such Public Work and appurtenances to be held by such person or persons as the guardian (*gardien*) or guardians thereof during the pendency of such action. 16 V. c. 12, s. 1.

62. Every such order may be moved or petitioned for and made, at any time after the service of the Writ of Summons, in the action, either before or after the return thereof, and either in Term or in Vacation, and shall be granted upon affidavit showing to the satisfaction of the Court or Judge, that the Public Work in question belongs to Her Majesty, and is unjustly or illegally detained by the Defendant. 16 V. c. 12, s. 2.

Order for delivery to guardian, how obtained.

63. The Sheriff upon receipt of any such Order, shall put the person or persons therein appointed as such guardian or guardians, in possession of the Public Work therein designated. 16 V. c. 12, s. 3.

Sheriff to put guardian into possession.

SALE AND TRANSFER OF PUBLIC WORKS.

64. The Governor in Council may dispose by sale or lease of any land, stream or water course or other real property, acquired for the purpose of any public work and no longer required for the same,—or of any portion of any hydraulic power created by the construction of any Public Work or the expenditure of any public money thereon, and not required for such Public Work,—and the proceeds shall be accounted for as public moneys: (9 V. c. 37, s. 13.)—And the Commissioners of Public Works may, whenever they deem it expedient, sell and convey to any person or body Corporate, any land or real estate acquired under section 28 of this Chapter, which they have under their control, and which is not required for the use of any such Public Work; and the proceeds of all such sales shall be by the said Commissioners accounted for in due course of law. 13, 14 V. c. 13, s. 1. *And see sect. 12 and 28 of this Chapter.*

Property, &c., no longer required for public purposes may be sold.

65. Any public Road or Bridge made, built or repaired at the expense of the Province and under the management and control of the Commissioners of Public Works, may, by Proclamation issued by the Governor in Council, be declared to be no longer under the management and control of the said Commissioners;—and upon, from and after a day to be named in such Proclamation, such Road or Bridge shall cease to be under the management and control of the said Commissioners, and no Tolls shall thereafter be levied thereon under the authority of this Chapter. 13, 14 V. c. 15, s. 2—*part.*

Roads and bridges made by the province may be withdrawn from the control of the Commissioners.

66. Any Public Road or Bridge, so declared by proclamation, to be no longer under management of the said Commissioners of Public Works, shall be under the control of the Municipal Authorities

Public roads and bridges, no longer under the management of the

Commissioners, to be under the control of the local municipal officers.

Authorities of the locality and of the Road Officers thereof, in like manner with other Public Roads and Bridges therein, and shall be maintained and kept in repair under the same provisions of law which are hereby declared to extend to such Road or Bridge. 13, 14 V. c. 15, s. 2—*remainder.*

Governor in Council may arrange for the transfer of certain public works to the local authorities.

67. The Governor in Council may enter into arrangements with any of the Municipal Councils or other Local Corporations or Authorities, or with any Company in Lower or Upper Canada incorporated for the purpose of constructing or holding such works, or works of like nature in the same section of the Province—for the transfer to them of any of the Public Roads, Harbours, Bridges or Public Buildings (whether within or without the limits of the Local Jurisdiction of such Municipal Councils or other Authorities) which it is found convenient to place under the management of such Local Authorities or Companies;—And on the completion of such arrangements, the Governor in Council may grant and by so granting, transfer, and convey for ever, or for any term of years, all or any of such Roads, Harbours, Bridges or Public Buildings, to such Municipal Council, or other Local Authority or Company (hereinafter called Grantee,) upon such terms and conditions as have been agreed upon; and the said Municipal Councils or other local Authorities may enter into such arrangements and may take and hold any such works so transferred;—And all moneys payable to the Province under the conditions of any such grant, shall be carried to the credit of the Sinking Fund and form part thereof. 12 V. c. 5. s. 12.—*See also 14, 15 V. c. 57, s. 1—18 V. c. 100, s. 15.*

Transfer to be effected by order in Council.

68. Any such grant of any of the said Public Works, may be made by Order of the Governor in Council, published in the *Canada Gazette*;—and by such Order, any or all of the powers and rights vested in the Crown or in the Governor in Council, or in any Officer or Department of the Provincial Government, with regard to the Public Work thereby granted, may be granted to and vested in the Grantee to whom the Public Work is granted:

What provisions such order in Council may contain.

2. And such Order in Council may contain any conditions, clauses and limitations agreed upon, which, as well as all the provisions of such Order in Council, shall, (in so far as they are not inconsistent with this Chapter, and do not purport to grant any right or power not immediately before the making of such Order in Council vested in the Crown or in the Governor in Council, or in some Officer or Department of the Provincial Government,) have force, and shall be obeyed, as if they had been contained in this Chapter, and had made part of the enactments thereof;

Revocation or alteration thereof allow-

3. And any such Order in Council may, with the consent of the Grantee, be revoked or amended by any subsequent Order in Council.

Council published as aforesaid ;---and a copy of the Canada Gazette containing any such Order in Council shall be evidence thereof,—and the consent of the Grantee thereto shall be presumed unless disputed by such Grantee, and if disputed, shall be proved by any copy of such Order in Council, on which the consent of the Grantee thereto shall be written and attested by such signature or seal, or both, as would be sufficient to make any Deed or Agreement the Deed or Agreement of such Grantee ;

ed with consent of grantee, &c.

4. But nothing in this Chapter or in any Order in Council made under it, shall exempt any person from any punishment or penalty imposed by or under authority of any Law, for any offence relative to any Public Work,—and so much of any such penalty as would otherwise belong to the Crown, shall, if it be so provided in the Order in Council, belong to the Grantee, otherwise it shall belong to the Crown ;---but this shall not prevent the repeal or alteration by the Grantee, of any such penalty imposed by the Governor in Council under the authority of any law, if the power to repeal or alter the same is transferred as aforesaid to such Grantee,—or by the Governor in Council with the consent of the Grantee, if such power is not so transferred. 12 V. c. 5. s. 13.

Penalties for offences relative to Public Works.

69. The provisions and conditions of any Order in Council made under this chapter may extend—to the mode of adjusting and determining any difference arising between the Crown and any Company or Municipal Corporation as to their respective rights under the same,—or to the reservation of the right of re-entry by the Crown into possession of any Public Work on the default of such Company or Corporation to perform the conditions agreed upon,—and to the vesting in any Sheriff power to give possession of such Public Work to any Public Officer for the Crown, on any warrant under the hand and seal of the Governor to be addressed to such Sheriff, reciting such default and commanding him to give possession to such Officer for the Crown as aforesaid ;---And no enactment made for the purpose of enforcing the provisions of any such Order in Council as aforesaid, shall be deemed an infringement of the rights of the Company or Municipal Corporation to which it relates ; but nothing in this section shall prevent the enforcement of the rights of the Crown in any legal manner not inconsistent with the provisions and conditions of any such Order in Council. 13, 14 V. c. 14, s. 4.

Order in Council transferring any Public Work may extend to certain matters.

70. No Road, Bridge or Public Work shall be transferred to any Company without the reservation of power on the part of the Crown to resume the same at any time after the expiration of a period which shall not exceed ten years, on conditions to be embodied in the Order in Council transferring it : and no such Road, Bridge or Public Work shall be leased to any Company for a longer period than ten years :

Certain powers must be reserved, &c.

Security must be given.

2. No Road, Bridge or Public Work shall be sold or leased to any Company, unless security, real or personal, has been given to the satisfaction of the Governor in Council, for an amount equal to ten per centum of the actual value of such Road, Bridge or Public Work in case of sale, or on the estimated value of such Work in case of lease, and such security shall be forfeited to the Crown in case of non-compliance with the conditions of such sale or lease ;

Work to be kept in thorough repair.

In every instance one of the conditions of the sale or lease of any Road, Bridge or Public Work shall be,—that such Work shall be kept in thorough repair, and that for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be ascertained and decided on by such Engineer as shall be appointed to examine the same by the Commissioners of Public Works. 13, 14 V. c. 14, s. 5.

Acts 12 V. cap. 56, extended to companies formed for purchasing Public Works under this chapter.

71. Subject to the provisions of this chapter, the provisions of the Lower Canada Joint Stock Road and Bridge Companies Act, (12 V. c. 56) or of any Act substituted for it, shall extend and apply to any Company in Lower Canada, to be formed for the purpose of acquiring for ever, or for any term of years, any of the Public Roads, Harbours, Bridges or Public Buildings which may be lawfully transferred to any such Company under this chapter, or for the purpose of so acquiring and of improving or extending (or both) any such Public Work,—as fully as if such purpose were expressly enumerated in the said chapter among the purposes for which Companies may be formed under the same,—the form of the instrument of association given in the schedules to the said Act being varied so as to express that the Company is formed under said chapter as extended by this chapter, and for what purpose it is so formed :

Such companies not liable to certain provisions of the said Acts.

2. Provided that no Company to be so formed for the purpose of acquiring any such Public Work (whether with or without the intention of extending the same) shall be liable to be opposed or prevented from acquiring such work or from using and working the same, by any Municipal Council or other party,—nor shall the Company be bound to make any report respecting such work to any Municipal authority,—nor shall such Municipal authority or the Crown have the right of taking such work at the end of any term of years;—but the provisions of the said Act, as to such opposition and prevention, or to such report, or to the taking of the works and property of the Company by any Municipal authority or by the Crown, shall apply only to the extension of the same beyond the local limits of the work when transferred to the Company ;

Certain sections of the said Acts to apply.

3. Nor shall any of the provisions of the said chapter inconsistent with any lawful provision or condition in any Order in Council legally made under this chapter, or with the rights transferred by the same, apply to the Company to which such Order in

in Council relates ;--but nothing herein shall prevent the reservation in any such Order of the power of taking any such work with or without any such extension, and by the Crown or any Municipal authority, on the terms and conditions therein to be expressed ;

Provided also, that the thirty-fifth section of the Act last above cited, or the corresponding provision of any Act substituted for it, shall apply to Roads, Bridges and other Works transferred to any Company and to the Company to whom the same have been transferred as far as regards such Roads, Bridges and Works. 13, 14 V. c. 14, s. 1.

72. The Tolls to be taken by any Company to be formed for the purposes aforesaid, on any such Public Work, not being a Road, shall not be regulated by the provisions of the chapter firstly mentioned, but the maximum Tolls to be levied on such work by the Company shall be the maximum tolls which can be lawfully levied on such work under this chapter, unless some lower maximum be fixed (as it may be) by the Order in Council transferring the work to the Company, or by some further order amending the same, made with the consent of the Company ;--and the Tolls to be levied on any Road, or on any extension of such other Public Work shall alone be regulated by the chapter firstly mentioned in the absence of any special provision for lower rates in the Order in Council as aforesaid :

What shall be the maximum tolls to be taken by any such company.

2. Provided that no exemption from Tolls on any Road or other Public Work so transferred, or on any extension thereof, shall be valid against any Company to be formed under the next preceding section of this chapter, except such only as can be validly claimed under the chapter firstly mentioned on works constructed under the authority thereof, unless such exemption from Toll is stipulated in the Order in Council transferring such Public Work to the Company. 13, 14 V. c. 14, s. 2.

As to exemption from toll.

72. Any party residing on the line of any Road transferred to any Company or Municipal Corporation under the provisions of this chapter, and within half a mile of the limits of any City or Incorporated Town, may commute with such Company or Municipal Corporation for a certain sum per month to be paid by such party to the Company or Corporation for passing and re-passing through the Toll-gate between the residence of such party and the limits of such City or Town, and in default of agreement such commutation may be fixed by arbitration, each party appointing one arbitrator, and the two arbitrators a third, and the decision of any two of such arbitrators being final ;--And in default of commutation either by agreement or award of arbitration, such Company or Municipal Corporation shall be entitled to charge such party or his servants and others passing

Provision in favor of parties residing within a certain distance of the limits of any City or incorporated Town.

passing such gate with his carriages or vehicles, horses or cattle, such Tolls only as will bear the same proportion to the Tolls per mile then charged by the Company or Municipal Corporation to other parties, as the distance between the limits of the said City or Town and the residence of the party first aforesaid bear to one mile. 13, 14 V. c. 14, s. 6.*

TOLLS ON PUBLIC WORKS.

74. The Governor in Council may, by Orders in Council to be issued and published as hereinafter provided, impose and authorize the collection of Tolls and Dues upon any Canal, Harbour, Road, Bridge, Ferry, Slide, or other Public Work, in this Province, vested in Her Majesty, or in the Commissioners of Public Works, or in any Public Officer, person, or body corporate, for the public uses of this Province, or to be acquired therefor,—and from time to time, in like manner, may alter and change such Tolls or Dues, and may declare the exemptions therefrom; and all such Tolls and Dues shall be payable in advance and before the right to the use of the Public Work in respect of which they are incurred shall accrue, if so demanded by the Collector thereof: 20 V. c. 19, s. 1.

Governor in Council may impose tolls for the use of any Public Work, and make regulations for their collection. Such tolls may be altered.

Such tolls not to exceed, &c. But no such Tolls or Dues shall exceed the maximum rates in the Schedule B to this chapter as regards the works in the said Schedule referred to. 20 V. c. 19, s. 2.

Fractions, how computed.

75. Any fraction of a ton or other quantity mentioned in the Schedule B to this Chapter as that on which the Tolls to be levied on the said Works are to be calculated, may be considered as a whole ton or quantity. 12 V. c. 4, s. 3, first part; remainder superseded by 20 V. c. 19.

What tolls shall be payable on vessels and passengers coming down the St. Lawrence rapids.

76. The same Tolls shall be payable on Steamboats or Vessels of any kind and Passengers, brought down the River St. Lawrence, past any of the Canals between Montreal and Kingston, as would be payable on such Steamboats, Vessels or Passengers, if the same had been brought through the Canal or Canals past which they shall have been brought down; and such Tolls shall be levied in like manner, and under the like penalties and forfeitures for the non-payment thereof. 13 V. c. 15, s. 1.

Governor in Council may alter the place of toll gates, &c.

77. The Governor in Council may from time to time, on the report of the said Commissioners, place the toll-gates on the roads in Schedule A at such places and such distances from each other as appear to him advisable. 10, 11 V. c. 24, s. 7, except power to vary tolls which is provided for by 20 V. c. 19, &c.

* NOTE.—This and the two next preceding sections applied originally to Companies formed under the U. C. Road Companies Act, 12 V. c. 84, but that Act was repealed by 16 V. c. 190, to Companies formed under which these sections do not seem to have been extended.

78. Her Majesty's Officers and Soldiers, being in proper uniform, dress or undress (but not when passing in any hired or private vehicle), and all carriages and horses employed in Her Majesty's service, when conveying persons or baggage, shall be exempted from payment of any tolls on using or travelling over any road or bridge named in the Schedule A to this chapter annexed, or made or constructed with the public money of this Province: but nothing herein shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage or stores along any canal, from payment of tolls, in like manner as other boats, barges and vessels are liable thereto. 9 V. c. 37, s. 19.

Officers and soldiers on duty to pass toll-free over roads and bridges.

Boats, &c., conveying the above along any canal, not to be exempt.

79. All tolls and dues imposed under this Chapter may be recovered, with costs, in any Court having civil jurisdiction to the amount, by the Collector or person appointed to receive the same, in his own name, or in the name of Her Majesty, and by any form of proceeding by which debts to the Crown may be recovered:

In what manner tolls and penalties under this Act shall be recoverable;

2. And all pecuniary penalties imposed by this Chapter, or by any regulation made under the authority thereof, shall be recoverable with costs before any Justice of the Peace for the District in which the offence was committed, upon proof by confession or by the oath of any one credible witness, and may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justice; And if sufficient distress cannot be found, and such penalty be not forthwith paid, such Justice may, by warrant under his hand and seal, cause the party offending to be committed to the Common Gaol of the District or County, there to remain without bail or mainprize, for such time as such Justice may direct, not exceeding thirty days, unless such penalty and costs be sooner paid; and such penalties shall belong to Her Majesty for the use of the Province;

And how levied.

Application of penalties.

3. But tolls and dues on timber passing any slide, and to penalties for violating regulations respecting such slides, or for non-payment of such tolls and dues, may be enforced, imposed and collected, by and before any Justice of the Peace within any District of the Province in which the timber, respecting which such tolls or dues, or the person from whom such payment or penalty is demanded, happens to be at the time application is made to such Justice to enforce payment of the same. 9 V. c. 37, s. 20.

Proviso: as to tolls, penalties, &c., accruing or incurred with respect to timber passing any slide, &c.

80. The goods on board of any such steamboat, vessel, raft, crib or other craft, or the animal or animals attached to any carriage or vehicle, and the goods contained therein, to whomsoever the same belong, shall be liable for any Tolls, Dues or Fine so to be imposed and levied,—and they, or any of them, may be seized, detained and sold in the same manner as the steamboat, vessel or

Goods, &c., in vessels or carriages liable for tolls or fines.

or other craft, carriage or vehicle in which they are or to which they are attached, and as if they belonged to the person or persons contravening any such Orders or Regulations,—saving the recourse of the real owners thereof against such person or persons, who shall be deemed the owner or owners thereof for the purposes of this Chapter. 20 V. c. 19, s. 5. 5

81. All tolls, dues or other revenues imposed and collected on Public Works, shall be paid by the persons receiving the same directly to the Receiver General of the Province, in such manner and at such intervals as may be appointed by him, but such intervals shall in no case exceed one month;—And all such tolls and revenues shall be held to be duties within the meaning of the *Act respecting the collection and management of the Revenue, the auditing of Public Accounts, and the liability of Public Accountants*, and shall, as shall all persons concerned in the collection thereof, and all matters therewith connected, be subject to the provisions of the said Chapter in so far as may be consistent with this Chapter. 9 V. c. 37, s. 21. 10 15

Tolls, &c., to be paid by the person receiving them to the Receiver General, and to be deemed duties within the meaning of chapter 16.

82. The Governor in Council may order the Tolls at the several gates erected or to be erected on any public road vested in the Crown, or under the management of the Commissioners of Public Works, to be let to farm under such regulations and by such form of lease as he thinks expedient;—and the lessee or farmer of such Tolls, or any person he may appoint, may demand and take such Tolls, and proceed for the recovery of the same in the name of such lessee or farmer, in case of non-payment or evasion thereof, in the same manner and by the same means as are given by law to any collector of Tolls or other persons authorized to collect the same. 10, 11 V. c. 24, s. 8. 20 25

Tolls at the several toll-gates may be farmed or leased, and the lessees shall have certain rights.

REGULATIONS FOR USE OF PUBLIC WORKS.

83. And for the due use and proper maintenance of all such Public Works, and to advance the public good,—the Governor in Council may, by Orders in Council, enact from time to time such Regulations as he may deem necessary for the management, proper use and protection of all or any of the said Public Works, or for the ascertaining and collection of the Tolls and Dues thereon. 20 V. c. 19, s. 3. 30 35

Governor in Council may make regulations for the proper use, &c., of any such work.

84. The Governor in Council may by such Orders and Regulations, impose such fines, not exceeding in any one case one hundred pounds, for any contravention or infraction of any such Order or Regulation, as he deems necessary for ensuring the observance of the same and the payment of the Tolls and dues to be imposed as aforesaid,—and may also by such Orders and Regulations provide for the non-passing or detention and seizure, at the risk of the owner, of any steamboat, vessel or other craft, carriage, animal, timber or goods, on which Tolls or dues have accrued and have not been paid, or in respect of which any such Orders or Regulations have been contravened 40 45

Fines may be imposed by such regulations.

Vessels, &c., may be detained until tolls or fines incurred are paid.

contravened or infringed, or any injury done to such Public Works and not paid for, or for or on account of which any fine has been incurred and remains unpaid,--and for the sale thereof, if such Tolls, dues, damages or fine be not paid by the time to be fixed for the purpose, and for the payment of such Tolls, Dues, Damages or Fine out of the proceeds of such sale, returning the surplus, if any, to the owner or his agent; But no such provision shall impair the right of the Crown to recover such Tolls, Dues, Fines or Damages in the ordinary course of law; and any such Tolls, Dues or Fines may always be recovered under the *seventy-ninth* section of this Chapter. 20 V. c. 19, s. 4.

But not to affect other provisions for their recovery.

MISCELLANEOUS PROVISIONS.

85.* All Proclamations, Regulations or Orders in Council made under this Chapter, shall be published in the Official Gazette, and a copy of such Gazette purporting to be printed by the Queen's Printer, and containing any such Proclamations, Orders or Regulations, shall be legal evidence thereof. 20 V. c. 19, s. 6.

Proof of Orders in Council under this Act.

86. The charges and expenses defrayed out of the tonnage dues formerly levied under the Acts repealed by the Act 14, 15 V. cap. 52, shall continue to be paid out of the Consolidated Revenue Fund of this Province; and the Governor may from time to time, by Warrant, advance out of the said Fund, to the Treasurer of the Trinity House of Quebec, and to the Treasurer of the Trinity House of Montreal, respectively, such sums as will (with any moneys they have in their hands applicable to such purposes,) be sufficient to enable the said Corporations to defray all expenses by them lawfully incurred, and to pay the interest and principal of all debts by them lawfully contracted, at the time when the same become payable, and may in like manner advance to the proper officer the sums required to defray any expenses, which, without the Act the last cited, would be payable out of the tonnage dues imposed by the Acts of the Legislature of Upper Canada thereby repealed: 14, 15 V. c. 52, s. 2.

Expenses formerly paid out of the tonnage dues imposed by the repealed Acts to be defrayed out of the Provincial Funds.

2. But neither the Trinity House of Quebec, nor the Trinity House of Montreal, shall borrow any sum of money, and the moneys advanced under this Chapter to the Treasurers of the said Corporations shall be accounted for in the manner by law provided, with regard to money received and expended by the said Corporations. 14, 15 V. c. 52, ss. 3, 4.

Trinity Houses of Quebec and Montreal not to borrow money.

SCHEDULE

SCHEDULE A.

PUBLIC WORKS VESTED IN THE CROWN AND PLACED UNDER THE
MANAGEMENT OF THE COMMISSIONERS OF PUBLIC WORKS BY
THIS CHAPTER.

Navigations, Canals and Slides.

The Welland Canal and Feeder, with the portion of the Grand River, from Cayuga Bridge to its mouth.

The Welland River, from Port Robinson to its mouth, and the Cut at the Chippewa.

All those portions of the Saint Lawrence Navigation, from Kingston to the Port of Montreal, improved at the expense of the Province.

The Lock and Dam at Saint Anne's.

The Scugog River Navigation, and the Navigations connected therewith, viz: From the head of the Lake Scugog to Fenelon Falls, and from thence to Mud Lake and Buckhorn Rapids, by Sturgeon, Pigeon and Buckhorn Lakes. Provided always, that this shall not divest the proprietors of the hydraulic privilege heretofore occupied, possessed or enjoyed by them, or enable Her Majesty, Her Heirs or Successors to grant any new privilege to other parties.

That portion of the Otonabee River, between Peterborough and Rice Lake, with the Lock and Dam at Whitlas' Rapids.

The Rice Lake, and the River Trent from thence to its mouth, including the Locks, Dams and Slides between those points.

All such portions of the Ottawa River, from Bytown upwards, as have been or shall be improved at the expense of the Province.

The Lock and other improvements on the River Richelieu.

The Madawaska River, from the head of the Ragged Chats to the Chats' Lake.

Harbours—Lake Erie.

Rondeau Harbour, including the Piers, Breakwaters, and Inner Basin.

Port

Port Stanley Harbour and Inner Basin.

Port Burwell do. do.

Port Dover do. do.

Port Maitland do. do.

Port Colborne do. do.

Lake Ontario.

Port Dalhousie Harbour.

Burlington Bay Canal.

Windsor Harbour.

Roads.

The Main Provincial Road from Quebec to Sandwich.

The Main Road from Queenston to Hamilton.

The Port Hope and Rice Lake Road.

The Windsor, Scugog and Narrows Bridge Road.

The Main North Road, from Toronto to Lake Huron, at Penetanguishene.

The Hamilton and Port Dover Road.

The London and Port Stanley Road.

The Road from the Village of Dundas to the Township of Waterloo mentioned in the Act of the Legislature of Upper Canada passed in the seventh year of the Reign of King William the Fourth, and intituled, *An Act to authorize the construction of a Macadamized Road from Dundas to Waterloo, in the Gore District.* 12 V. c. 4, s. 5.

But the Montreal and Quebec Turnpike Trusts, and such portions of the said Roads, respectively, as lie within the limits of any incorporated City or Town, shall not be under the management of the said Commissioners; nor shall such portions of the said Roads as may from time to time be exempted by Proclamation issued by order of the Governor in Council, from the operation of this Chapter, which portions shall, during the period of such exemption, remain subject to the same authorities and provisions of Law as if this Chapter had not been passed. 9 V. c. 37—*Schedule.*

And

And the Tolls collected under this Chapter upon each Road shall be applicable to the improvement of the Road, and the extension of the improved portion thereof,—and the debt due by any Commissioners, District or public body on that portion of any road under the control of the Commissioners of the Public Works, shall be thereafter payable out of the Provincial Funds.
9 V. c. 37—*Schedule*.

Bridges.

The Chaudière Bridge near Quebec.

The Cap-Rouge Bridge.

The St. Anne de la Pérade Bridge.

The Batiscan Bridge.

The Saint Maurice Bridge.

The Union Suspension and other Bridges over the Ottawa River between Bytown and Hull.

The Trent Bridge at the mouth of the Trent.

The Bridge at the Narrows of Lake Simcoe.

The Dunnville Bridge.

The Caledonia Bridge.

The Brantford Bridge.

The Paris Bridge.

The Delaware Bridge.

The Chatham Bridge.

Except any of the said works or any part of any of them transferred to any Municipal Corporation or to any Company, &c.

Public Works generally.

And all other Canals, Locks, Dams, Slides, Bridges, Roads or other Public Works, of a like nature, constructed or to be constructed, repaired or improved at the expense of the Province: 9 V. c. 37—*Schedule*.

SCHEDULE

SCHEDULE B.

TABLE OF THE MAXIMUM TOLLS TO BE LEVIED UNDER THIS CHAPTER.

	£	s.	D.
On Goods and Merchandize passing through all the Canals between Montreal and Kingston, upwards, per ton weight.....	0	7	6
The same, downwards.....	0	5	0
On Steamboats or other Vessels, passing through the same, upwards, per ton burthen.....	0	0	3
Do do downwards, per ton burthen.....	0	0	1½
On Passengers of or over 21 years of age, upwards, each.....	0	0	6
Do do do downwards, each.....	0	0	3
Do do under the said age, upwards, each.....	0	0	3
Do do do downwards, each.....	0	0	1½
The same Tolls being payable on Goods and Merchandize brought down the River Saint Lawrence past any section or sections of the said Canals, as if they had been brought through the same, excepting always timber brought down in rafts or cribs, and having been cut upon the banks of the Saint Lawrence or Ottawa Rivers, or of the Bay of Quinté, or of the streams running into either of the said Rivers or Bay.			
On Goods and Merchandize passing through the Welland Canal, upwards or downwards, per ton weight.....	0	7	6
On Steamboats or other Vessels passing through the same, upwards or downwards, per ton burthen.....	0	0	1½
On Passengers of or over 21 years of age, upwards or downwards, each.....	0	0	6
Do do under 21 years of age, upwards or downwards, each.....	0	0	3
On Goods and Merchandize passing through the Chambly Canal, upwards or downwards, per ton weight.....	0	2	6
On Steamboats or other Vessels passing through the same, upwards or downwards, per ton burthen.....	0	0	1½
On Passengers of or over 21 years of age, or downwards, each.....	0	0	6
Do do under 21 years of age, each.....	0	0	3
And on Goods, Vessels, or Passengers passing through any portion or section of the said Canals, respectively, such portions of the above rates as the Governor in Council deems expedient.			
			On

£ s. d.

On Goods and Merchandize, Vessels and Passengers passing through any of the Locks mentioned in the Schedule A, annexed to this Chapter, or hereafter to be constructed, and not being on any of the Canals aforesaid, per ton weight, upwards or downwards, at each Lock.....	0	0	3
On Steamboats and other Vessels, upwards or downwards, per ton burthen.....	0	0	1
On Passengers of or over 21 years of age, upwards or downwards, each.....	0	0	4
Do do under 21 years of age, upwards or downwards, each.....	0	0	2
For the use of the several Public Harbours mentioned in the said Schedule A :			
For each ton weight of Goods or Merchandize landed or shipped.....	0	5	0
On Steamboats and other Vessels using any such Harbour, per ton burthen, per diem.....	0	0	0½
On Passengers embarked or disembarked, of or over 21 years of age, each.....	0	0	1
Do do do under 21 years of age, each..	0	0	0½
For the use of the several Slides mentioned in the said Schedule A :			
For each Crib of hard wood Timber, Masts, Staves or Sawed Lumber.....	0	12	6
For each Crib of other Timber or of Saw Logs....	0	10	0
On the several Public Roads mentioned in the said Schedule A, at each gate thereon, and for each time of passing such gate :			
For each vehicle of any kind, and one horse or other beast of draught and not more than ten hundred weight of load, (each additional ten hundred weight being reckoned as one horse, and any fraction of ten hundred weight as ten hundred weight).....	0	0	6
For each additional horse or beast of draught attached to such vehicle, or saddle horse, or other beast and its rider.....	0	0	2
For each horse not attached to any vehicle and without a rider, ox, cow, or head of cattle, or non-enumerated quadruped.....	0	0	1
For each sheep, pig, or goat.....	0	0	0½
On the several Public Bridges mentioned in the said Schedule A, and for each time of passing over the same,—the same Tolls as on the Public Roads aforesaid for animals and carriages, and for each foot passenger.....	0	0	1

CAP.

C A P . X X I X .

An Act respecting Riots near Public Works.

FOR the preservation of the peace, and for the protection of the lives, persons and property of Her Majesty's subjects, in the neighbourhood of public works on which large bodies of labourers are congregated and employed: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

WHEN AND WHERE THIS CHAPTER SHALL BE IN FORCE.

1. The Governor in Council may, as often as occasion requires, declare by Proclamation the several places in this Province, within the limits whereof any Canal or other public Provincial works, or any Railway, Canal, or other work undertaken, or carried on by any Incorporated Company under authority of any Act of Parliament, is in progress of construction, or such places as are in the vicinity of any such Canal or Railway or other work as aforesaid, within which he deems it necessary that this Chapter should be in force,—and this Chapter shall, upon and after the day to be named in any such Proclamation, take effect within the places designated in such Proclamation:

Governor in Council may, by Proclamation, declare this Act to be in force in any locality in which public works are being carried on.

And the Governor in Council may, in like manner, from time to time, declare this Chapter to be no longer in force in any of such places; but this shall not prevent the Governor in Council from again declaring the same to be in force in any such place or places;

And may, in like manner, declare this chapter to be no longer in force in any such locality.

But no such Proclamation shall have effect within the limits of any City. 8 V. c. 6, s. 1, *as extended by* 14, 15 V. c. 76, s. 1.

Proviso: not to apply to Cities.

2. Upon and after the day to be fixed in such Proclamation, no person employed in or upon any such Canal, Railway or other work as aforesaid, within the limits specified in such Proclamation, shall keep or have in his possession or under his care or control, within such limits, any gun, blunderbuss, pistol, or any other fire-arm, or any stock, lock, barrel, or any other part of such gun, blunderbuss, pistol, or other fire-arm, or any bullets, sword, sword blade, bayonet, pike, pikehead, spear, spearhead, dirk, dagger, or other instrument intended for cutting or stabbing, or other arms, ammunition, or weapon of war, under a penalty of not less than ten shillings, nor more than twenty shillings for every such weapon found in his possession. 8 V. c. 6, s. 2, *extended by* 14, 15 V. c. 76.

While this chapt. shall be in force in any locality, no person there resident shall have any arms or weapons of war.

3. Within the time appointed as aforesaid in such Proclamation, every person employed in or upon the Canal, Railway or other

Weapons to be delivered to other

Magistrate, and receipt given for the same.

other work to which the same relates, shall bring and deliver up to some Justice of the Peace or Commissioner, to be appointed by the Governor for the purposes of this Chapter, every such weapon in his possession, and shall obtain from such Justice of the Peace or Commissioner a receipt for the same. 8 V. c. 6, s. 3, *extended, &c.*

Weapons so detained to be returned when this chapter ceases to be in force, &c.

4. When this Chapter ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or when the owner or person lawfully entitled to any such weapon satisfies the Magistrate or Commissioner that he is about to remove immediately from the limits within which this Chapter is at the time in force, the Magistrate or Commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt so given for it. 8 V. c. 6, s. 4.

Weapons unlawfully kept may be seized, and shall be forfeited.

5. Every such weapon found in the possession of any person employed as aforesaid, after the day named in any Proclamation as that on or before which such weapon ought to be delivered up, and within the limits or locality set forth in the Proclamation bringing this Chapter into force, shall be liable to be seized; and being seized by any Justice, Commissioner, Constable or other Peace Officer, shall be forfeited to the use of Her Majesty. 8 V. c. 6, s. 5.

Penalty on persons in the limits in which this chapter is in force, keeping arms contrary to it.

6. If any person, for the purpose of defeating this Law, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this Chapter is at the time in force, any such weapon as aforesaid belonging to or in the custody of any person employed on any such Canal, Railway or other work, such person shall forfeit a sum of not less than ten pounds nor more than twenty-five pounds; one half to belong to the informer, and the other half to Her Majesty. 8 V. c. 6, s. 6.

On a sufficient affidavit, any Justice of the Peace may authorize a search for and seizure of unlicensed arms where this chapter shall be in force.

7. Any Justice of the Peace, or any Commissioner appointed under this chapter, having authority within the place where this chapter is at the time in force, upon the oath of a credible witness that he believes that any such weapon as aforesaid is in the possession of any person contrary to the provisions of this chapter, or in any house or place,—may issue his warrant to any Constable or Peace Officer to search for and seize the same, and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place :

Forcible entry in case admission to be refused to the Officer.

2. And in case admission to any such house or place cannot be obtained after demand, such Constable or Peace Officer, and person in his aid, may enter the same by day or by night, and seize such weapon; and unless the party within whose possession or in whose house or place the same has been found,

found, do, within four days next after the seizure, prove to the satisfaction of such Justice or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Chapter, such weapon shall be forfeited to the use of Her Majesty. 8 V. c. 6, s. 7.

Weapons, &c, seized to be forfeited unless proved to have been lawfully kept.

8. Any Justice or Commissioner, Constable or Peace Officer, or any person acting under a Justice's or Commissioner's warrant, or in aid of any Justice, Commissioner, Constable or Peace Officer,—may arrest and detain any person employed on any such Canal, Railway or other work found carrying any such weapon as aforesaid, within the limits or locality within which this chapter is at the time in force, at such time and in such manner as in the judgment of such Justice, Commissioner, Constable or Peace Officer, or person acting under a warrant, affords just cause of suspicion that they are carried for purposes dangerous to the public peace,—And the act of so carrying any such weapon by any person so employed shall be a misdemeanor, and the Justice or Commissioner arresting such person, or before whom he is brought under such warrant, may commit him for trial for a misdemeanor, unless he gives sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, to answer to any indictment to be then preferred against him. 8 V. c. 6, s. 8.

Persons carrying weapons in places where this chapter shall be in force, under circumstances of suspicion, may be arrested.

Such person may be committed for trial for a misdemeanor.

9. Every such Justice or Commissioner shall make a monthly return to the Secretary of the Province of all weapons delivered to him, and by him detained under this chapter. 8 V. c. 6, s. 9.

Commissioners to make monthly return &c.

10. All weapons declared forfeited under this chapter, shall be sold under the direction of the Justice or Commissioner by whom or by whose authority the same were seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such Justice or Commissioner and paid over by him to the Receiver General for the use of the Province. 8 V. c. 6, s. 10.

Weapons forfeited to be sold.

Proceeds how applied.

11. Any action brought against any Justice or Commissioner, Constable, Peace Officer, or other person, for any thing done in pursuance of this chapter, must be commenced within six months next after the fact;—and the venue shall be laid or the action instituted in the District or County where the fact was committed; and the Defendant may plead the general issue and give this chapter and the special matter in evidence; And if such action is brought after the time limited, or the venue is laid or the action brought in any other District or County than as above declared, the Jury shall find for the Defendant; and in such case, or if the verdict is given for the Defendant on the merits, or if the Plaintiff becomes nonsuit or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the Defendant shall be entitled to recover double costs. 8 V. c. 6, s. 11.

Time for action for any thing done under this chapter limited, &c.

Venue, &c.

Defendant, if successful, to have double costs.

Before whom penalties imposed by this chapter may be recovered, and on what evidence.

12. All penalties imposed by this chapter may be recovered before any two Justices of the Peace acting for the District or County within which the fact in respect of which such penalty is sought to be recovered, happened or was committed;—and such Justices shall, on complaint on oath of such offence, issue their warrant for bringing the offender before them, and shall, on the offender being brought before them, hear the complaint and adjudge upon the same; and if the offender is convicted on the oath of one witness other than the informer, or by his own confession, the Justices shall impose such penalty. 8 V. c. 6, s. 12.

MOUNTED POLICE FORCE.

A mounted Police Force may be raised and employed for better carrying this chapter into effect.

13. And for better carrying this Act into effect, the Governor in Council may cause a body of men not exceeding one hundred, inclusive of officers, and to be called *The Mounted Police Force*, to be raised, mounted, armed and equipped, and to be placed under the command of such Officers as the Governor in Council deems necessary, and may cause such Police Force or any portion thereof, to be employed in any place in which this chapter is then in force, under such Orders and Regulations as the Governor in Council shall from time to time issue. 8 V. c. 6, s. 13.

Officers of Police Force and others may be appointed Justices of the Peace for certain localities without a property qualification.

Proviso—as to committal by such Justices to gaols out of limits of such localities.

14. The Governor may appoint the Chief Officer and such of the Subordinate Officers of the said *Mounted Police Force*, and such other persons as he deems necessary, to be respectively Justices of the Peace for the purposes of this chapter within any of the places in which this chapter is in force; and such Officers and persons respectively may act as Justices of the Peace although they may not have qualification in property the Peace although they may not have qualification in property required of others:—Provided that in so far as regards the detention, conveyance to gaol and imprisonment of any person committed by any Justice of the Peace appointed under this chapter, his order and commitment shall be valid and shall be executed, although the common gaol to which the prisoner is committed, be out of the limits of any place within which this chapter has been proclaimed in force. 8 V. c. 6, s. 14.

Mounted Policemen to be constables and Peace Officers.

15. The men in such *Mounted Police Force* are hereby constituted respectively Constables and Peace Officers for the purposes of this chapter, for the District or County in which they are employed for the time being. 8 V. c. 6, s. 15.

EXPENSES UNDER THIS CHAPTER.

Expenses of carrying this cap. into effect to be defrayed by the Board of Works, and

16. The expenses of carrying this chapter into effect upon or near Public Provincial Works shall be paid through the Commissioners of Public Works out of the moneys appropriated for the work on which such expenses are incurred, and shall be charged as part of the cost of such work; and the sum to be so charged

charged against each work, shall be proportionate to the number of Policemen employed on such work and the time during which they are so employed :—but the sum so expended in any one year shall not exceed ten thousand pounds. 8 V. c. 6, s. 16. to be proportionally paid out of the moneys appropriated for the Public Works.

17. The expenses attending the employment of any such Police Force in any place in or in the vicinity whereof any Railway, Canal or Work, undertaken and carried on by any such Incorporated Company as aforesaid, is in progress of construction, shall be, in the first instance, paid by the Governor, out of the Consolidated Revenue Fund, and shall, on demand, be repaid to the Receiver General by such Incorporated Company, or, if not so repaid, may be recovered from such Company as a debt due to the Crown ; and when recovered, shall form part of the said Consolidated Revenue Fund. 14, 15 V. c. 76, s. 3. How the expenses of keeping the peace on such works shall be paid.

18. In this chapter, the term "weapon" includes every species of weapon, arms or ammunition, enumerated in the second section of this chapter. 8 V. c. 6, s. 17. Interpretation clause.

19. This Chapter shall continue in force until the first day of January, 1859, and thence to the end of the ensuing session of Parliament, and no longer. 22 V. c. 81. Duration of this chapter.

C A P . X X X .

An Act respecting the sale of Intoxicating Liquors near Public Works.

IN order to restrain the sale and use of Intoxicating Liquors in the neighbourhood of Public Works where large bodies of men are necessarily gathered together : Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Intoxicating liquors not to be sold within a certain distance of any public work in progress of construction.

1. No person shall barter, sell, exchange or dispose of directly or indirectly to any other person, any alcoholic, spirituous, vinous, fermented or other Intoxicating Liquor, or any mixed Liquor a part of which is spirituous, or vinous, fermented or otherwise intoxicating,—and every such Liquor or mixed Liquor shall be included in the expression “Intoxicating Liquor” when used in this chapter,—nor shall expose, keep or have in his possession for sale, barter or exchange, any Intoxicating Liquor, at any place not included within the limits of any City, incorporated or other Town or Village, and being within three miles of the line of any Railway, Canal, or other Public Work in progress of construction, whether such work be constructed by the Government of this Province, or by any incorporated Company, or by private enterprise ;—Nor shall any person obtain or receive a license, to sell any Intoxicating Liquor at any such place as aforesaid, and any such license if granted shall be null :

Governor may declare any work within the scope of this Chapter.

2. If any doubt at any time arise as to whether any work then in progress does or does not come within the meaning of this section, the Governor, if he sees fit, may declare by Proclamation that such work is within the meaning of this section, and that the prohibition herein contained applies to any place within three miles of the line thereof, which line may be described and defined in such Proclamation,—and the declaration contained in such Proclamation shall have the like force as if contained in this chapter, and the said prohibition shall apply accordingly ;

Effect of such declaration.

3. Nothing in such declaration shall be construed as a declaration that such work or any part thereof was not within the meaning of this section before the issuing of such Proclamation, but the question whether it was or was not so shall be decided as if such Proclamation had not issued ;

Proviso: not to apply to distillers, or brewers, &c., or to prevent renewal of license, &c.

4. This section shall not extend to any person selling Intoxicating Liquors by wholesale, and not retailing the same, if such person be a licensed Distiller or a Brewer ;—nor shall it prevent the renewal of the license of any House or Shop licensed before the 14th day of June, 1853, or of Houses or Shops which had been usually licensed theretofore. 16 V. c. 164, s. 1.

1. Any person who, in contravention of this chapter, by himself, his clerk, servant or agent, exposes or keeps for sale or barter, or sells, disposes of, gives or exchanges for any other matter or thing, to any other person, any Intoxicating Liquor, shall be liable to a fine of Five Pounds on the first conviction, Ten Pounds on the second, and on the third and every subsequent conviction to such last mentioned fine and imprisonment for a period not more than six calendar months,—such fine to be paid over to the Chamberlain, Treasurer, Clerk or Secretary-Treasurer, of the Municipality in which the offence is proved to have been committed, for the use of the Municipality and be applied to such public purposes as the Council thereof may direct :

Penalty for contravention of this chapter ; and how recoverable, &c.

2. And in default of payment of any fine and costs imposed under this Chapter, with the costs of prosecution, at the time of conviction, the offender shall be imprisoned until the same be paid, under warrant of the Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge before whom the conviction is had ; but no person shall be imprisoned for any separate offence under this chapter for fine or costs, or both, for fine and costs, for a period exceeding six months. 16 V. c. 164, s. 2.

Imprisonment in default of payment.

3. If any clerk, servant or agent, or other person in the employment or on the premises of another, sells, disposes of, or exchanges for any other matter or thing, or assists in selling, disposing of, exchanging for any other matter or thing, any Intoxicating Liquor in contravention of this chapter, for the person in whose service or on whose premises he is, he shall be held equally guilty with the principal, and shall suffer the like penalty. 16 V. c. 164, s. 3.

Agents punishable as principals.

4. Any Justice of the Peace, any Reeve or Mayor of a Township, Village or other Municipality, any Police Magistrate, a Recorder of any City or Town, any Judge of a Circuit or Division Court, shall hear and determine in a summary manner any case arising within his jurisdiction under this chapter ; and every person making complaint against any other person for contravening this chapter, or any part or portion thereof, before such Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge, may be admitted as a witness ; and if the Justice, Reeve, Mayor, Police Magistrate, Recorder, Judge or Commissioner, before whom the examination or trial is had so orders, as he may if he thinks there was probable cause for the prosecution, the defendant shall not recover costs though the prosecution fails. 16 V. c. 164, s. 4.

Who may hear and decide cases under this Chapter.

5. No appeal shall be allowed to any person complained of or convicted under this Chapter, unless he enters into a Recognizance or Bond to the Municipality in which the offence is alleged to have been committed, in the sum of Twenty-Five Pounds,

On what conditions only an appeal shall be allowed.

Pounds, jointly and severally with two good and sufficient sureties, to prosecute his appeal, and to pay all costs, fines and penalties to be awarded against him upon the final determination of the case :

By whom the recognizance in appeal shall be taken, &c.

2. No Recognizance or Bond shall be taken except by the Justice, Reeve, or Police Magistrate, Recorder or Judge before whom the complaint was made or the offender tried, and the security shall be to his satisfaction, and if the appeal is not successful, the Recognizance or Bond shall be forfeited, and the amount thereof shall become a debt due to the Municipality within which the offence was committed, recoverable by action by and in the name of the Municipality, and it shall be the duty of the Secretary-Treasurer, Clerk, or Treasurer, or Chamberlain of such Municipality to prosecute the same, and the money shall be applied in the same manner as the fines hereinbefore mentioned ;—And if the Recognizance or Bond mentioned in this Section is not given before or within three days after conviction, order made or judgment rendered, the Appeal shall not be allowed. 16 V. c. 164, s. 5.

Search for liquors allowed in certain cases.

6. If any three persons being voters or entitled to vote at any Municipal election of the Municipality within which the complaint is made, make oath or affirmation before any Justice, Reeve, Mayor or Police Magistrate, Recorder or Judge of the Circuit Court or of a Division Court,—that they have reason to believe and do believe that any Intoxicating Liquor intended for sale or barter in contravention of this chapter, is kept or deposited in any Steamboat or other vessel, or in any carriage or vehicle, or in any store, shop, warehouse, or other building or place in such Municipality, or on any river, lake or water adjoining the same, at any place within which such Intoxicating liquor is by this chapter prohibited to be sold or bartered or kept for sale or barter,—the said Justice, Mayor, Reeve, Police Magistrate, Recorder, or Judge shall issue his Warrant of Search to any Sheriff, Police Officer, Bailiff or Constable, who shall forthwith proceed to search the premises, steamboat, vessel or place described in such Warrant, and if any intoxicating Liquor be found therein, he shall seize the same, and the barrels, casks or other packages in which it is contained, and convey them to some proper place of security, and there keep them until final action is had thereon ;— But no dwelling house in which, or in part of which a shop or bar is not kept, shall be searched, unless one at least of the said complainants testifies on oath to some act of sale of Intoxicating Liquor therein or therefrom in contravention of this chapter within one calendar month of the time of making the said complaint :

Seizure, if found.

Dwelling house not to search except in certain cases.

Owner of liquor found to be summoned.

The owner or keeper of the Liquor seized as aforesaid, if he is known to the Officer seizing the same, shall be summoned forthwith before the Justice or person by whose warrant the Liquor

Liquor was seized, and if he fails to appear, and it appears to the satisfaction of the said Justice or person who issued the Warrant, that the said Liquor was kept or intended for sale or barter, in contravention of this Act, it shall be declared forfeited with any package in which it is contained, and shall be destroyed by authority of the written Order to that effect of the said Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, and who shall join with the Officer by whom the said Liquor has been destroyed, in attesting that fact upon the back of the Order by authority of which it was done; And the owner or keeper of such Liquor shall pay a fine of Ten Pounds and costs, or be committed to prison for three months in default thereof. 16 V. c. 164, s. 6.

Destruction of liquors found to be illegally kept.

Fine.

7. If the owner, keeper or possessor of Liquor seized under the provisions of this chapter is unknown to the Officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure has been advertised, with the number and description of the package as near as may be, for two weeks, by posting up a written or printed notice and description thereof in at least three public places :

Proceedings if the owner be unknown, &c.

And if it is proved within such two weeks to the satisfaction of the Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge by whose authority such Liquor was seized, that it was not intended for sale or barter in contravention of this chapter, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the Warrant, which shall be returned to the said Justice or person who issued the same; but if after such advertisement as aforesaid, it appears to such Justice, Reeve, Mayor, Police Magistrate, Recorder or Judge, that such Liquor was intended for sale or barter, in contravention of this chapter, then such Liquor, with any package in which it is contained, shall be forfeited, condemned and destroyed. 16 V. c. 164, s. 7.

If not intended for sale, &c.

Forfeiture and destruction of liquors intended for sale.

8. Any payment or compensation for liquor sold or bartered in contravention of this chapter, whether in money or securities for money, labor or property of any kind, shall be held to have been received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the party making, paying or furnishing the same;—and all sales, transfers, conveyances, liens and securities of every kind which either in whole or in part have been given for or on account of Intoxicating Liquor sold or bartered in contravention of this chapter, shall be null against all persons, and no right shall be acquired thereby, and no action of any kind shall be maintained either in whole or in part for or on account of Intoxicating

Payments for liquor illegally sold, &c., in contravention of this Chapter, to be void.

Intoxicating Liquor sold or bartered in contravention of this chapter. 16 V. c. 164, s. 8.

Witnesses may be compelled to appear in certain cases under this chapter.

9. Any Justice of the Peace, Reeve, Police Magistrate, Recorder or Judge, authorized to hear and determine offences against this chapter, may summon any person represented to him as a material witness in relation to any offence against this chapter,—and if such person refuses or neglects to attend, pursuant to such summons, the Justice or person authorized to try the offence, may issue his Warrant for the arrest of the person so summoned, and such person shall be brought before the Justice or person issuing the Warrant, and if he refuses to be sworn or to affirm, or to answer any question touching the matter under investigation, he may be committed to the common gaol, there to remain until he consents to be sworn or to affirm and answer:

Provisions of Acts for protection of Justices extended to cases under this Chapter.

And all the provisions of any Law for the protection of Justices of the Peace when acting as such, or to facilitate proceedings by or before them, in matters relating to summary conviction and orders, shall in so far as they are not inconsistent with this chapter, apply to every Functionary mentioned in this section or empowered to try offenders against this chapter, and such Functionary shall be deemed a Justice of the Peace within the meaning of any such Law, whether he be or be not a Justice of the Peace for other purposes. 16 V. c. 164, s. 9.

Costs for enforcing judgment to be included.

10. Whenever judgment is rendered for costs, there shall be included therein fees for such prospective services as are necessary to enforce such judgment. 16 V. c. 164, s. 10.

Costs under this Chapter.

11. Upon judgment or affirmance of any appeal, and for any other proceeding under this chapter had before a Justice, Reeve or other Functionary, the costs shall be the same as are now by law allowed for proceedings of a like nature;—And in actions and proceedings in any higher Court, the costs shall be the same as are usually allowed in such Court. 16 V. c. 164, s. 11.

Actions and proceedings not to be void for want of form.

12. No action or other proceeding, Warrant, Judgment, Order or other Instrument or Writing, authorized by this chapter, or necessary to carry out its provisions, shall be held void, or be allowed to fail for defect of form;—but all Justices, Municipal Councils, Judges and Courts, and all Public Functionaries or Officers required to perform any duty under this chapter, shall regard the same as a remedial Statute, and shall so construe its provisions as to advance the remedy, and suppress the mischief mentioned in the Preamble thereof. 16 V. c. 164, s. 12.

C A P . X X X I .

An Act respecting the Provincial Post Office.

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

PRELIMINARY—INTERPRETATION.

1. This chapter shall be known and may be cited as *The Post Office Act*; and the following terms and expressions therein shall be held to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context :

Interpretation clause.

The term " Letter " includes Packets of Letters ;

The term " Postage " means the duty or sum chargeable for the conveyance of Post Letters, Packets and other things by Post ;

The term " Foreign Country " means any country not included in the dominions of Her Majesty ;

The term " Foreign Postage " means the postage on the conveyance of Letters, Packets or other things, within any Foreign Country ;

The term " Colonial Postage " means the postage on the conveyance of Letters, Packets or other things within any of the British Colonies in North America, which Colonies when referred to in this Chapter shall be understood to be those only which, being parties to the Agreement hereinafter mentioned, have acquired the right of establishing and regulating Inland Posts under the Act of the British Parliament, intituled, *An Act for enabling Colonial Legislatures to establish Inland Posts*, passed in the Session held in the twelfth and thirteenth years of Her Majesty's Reign ;

Colonia Post-
age.

The term " Provincial Postage " means the postage on the conveyance of Letters, Packets and other things by Post within this Province ;

The term " Mail " includes every conveyance by which Post Letters are carried, whether it be by land or by water ;

The term " British Packet Postage " means the postage due on the conveyance of letters by British Packet Boats, between the United Kingdom and any British North American Colony ;— And the term " British Postage " includes all Postage not being Foreign, Colonial or Provincial ;

The

The expression "employed in the Provincial Post Office" applies to any person employed in any business of the Provincial Post Office ;

Post Letter.

The term "Post Letter" means any letter transmitted or deposited in any Post Office to be transmitted by the Post ;—And a letter shall be deemed a Post Letter from the time of its being so deposited or delivered at a Post Office, to the time of its being delivered to the party to whom it is addressed, and a delivery to any Letter Carrier or other person authorized to receive letters for the Post, shall be deemed a delivery at the Post Office ; and a delivery at the house or office of the person to whom the letter is addressed, or to him, or to his servant or agent, or other person considered to be authorized to receive the letter, according to the usual manner of delivering that person's letters, shall be a delivery to the person addressed ;

The term "Post Letter Bag" includes a Mail Bag or Box, or Packet or Parcel, or other envelope or covering in which Post Letters are conveyed, whether it does or does not actually contain Post Letters ;

The term "any Post Office" means any building, room or place where Post Letters are received or delivered, sorted, made up or despatched ;

Valuable Security.

The term "Valuable Security" includes the whole or any part of any tally, order or other security or document whatsoever entitling or evidencing the title of any party to any share or interest in any Public Stock or Fund, whether of this Province, or the United Kingdom, or any British Colony or Possession, or of any Foreign Country, or in any Fund or Stock of any Body Corporate, Company or Society in this Province or elsewhere, or to any deposit in any Savings Bank, or the whole of any part of any Debenture, Deed, Bond, Bill, Note, Cheque, Warrant or order or other security for the payment of money, or for the delivery or transfer of any goods, chattels or valuable thing, whether in this Province or elsewhere ;

And the term "between" when used with reference to the transmission of letters or other things, applies equally to such transmission from either place to the other. 13, 14. c. 17, s. 24.

TRANSFER OF MANAGEMENT TO PROVINCIAL AUTHORITIES, UNDER THE POWERS GIVEN BY IMPERIAL ACT 12, 13 V. c. 66.

Transfer of Inland Posts.

2. The Inland Posts and Post Communications in this Province shall, in so far as may be consistent with the Acts of the Parliament of the United Kingdom in force in this Province, be exclusively under Provincial management and control ;—The Revenue

Revenue arising from the duties of postage and other dues receivable by the Officers employed in managing such Posts and Post Communications, shall form part of the Provincial Revenue, unless such moneys belong of right to the United Kingdom or to some other Colony, or to some Foreign State ;—The expenses of management shall be defrayed out of Provincial Funds ;—And the Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the Liability of Public Accountants, shall apply to the said Posts and Post Communications, and to the Officers and persons employed in managing the same, or in collecting or accounting for the duties and dues aforesaid, except in so far as any provision of the said chapter is insusceptible of such application or is inconsistent with any provision of this chapter. 13, 14 V. c. 17, s. 2.

15. 3. All privileges, powers and authority vested on the fifth day of April, 1851, (the time of the coming fully into force of the Act 13, 14 V. c. 17,) by any Provincial Act, in Her Majesty's Deputy Postmaster General, with regard to services to be required from any Railway Company, touching the conveyance of the Mail, or with regard to any other matter relative to the Inland Posts or Post Communications, are transferred to and vested in the Provincial Postmaster General. 13, 14 V. c. 17, s. 6. Transfer of privileges.

20 4. Except in so far as it is otherwise provided in any case by the proper authority under this chapter, or any other Provincial Act or Law,—all Post Offices and Postal Divisions, Stations, Districts and Establishments, and all commissions or appointments of any officers or persons employed in managing the said Inland Posts and Post Communications, or in collecting or accounting for the duties and dues aforesaid, in force on the said fifth day of April, 1851, shall continue and remain in force, and the nature of the duties and local extent of the powers of each Office, and the salary and emoluments of the Officer, shall remain the same as if such commissions or appointments had been granted or made under the authority of this chapter, subject always to the provisions hereinafter made : Commissions, divisions, contracts, powers, &c., to remain in force until altered.

25 And all bonds given by such Officers or persons or their societies, and all contracts, agreements or engagements made by any party with or to any such Officer or person, shall remain in full force and effect, and shall be construed and have effect to all intents and purposes as if made and entered into with express reference to this chapter and for the performance of the duties, which under this chapter may be lawfully assigned to such Officers and persons respectively ;—And any contract for the conveyance of Her Majesty's Mails or for any other service to be performed with reference to the Post Office, shall be construed as a contract for the conveyance of Her Majesty's Mails under this chapter, and for the performance of the services therein Bonds. Contracts.

therein contracted for, for Her Majesty's Provincial Post Office, and the fulfilment of such contract may be enforced accordingly under this chapter, payment for such services being made out of Provincial Funds, but otherwise according to the terms of such contract ;

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Regulations. And every regulation and departmental order not inconsistent with this chapter and not providing for a matter for which provision is made by this chapter, made by any then competent authority, to guide or direct such Officers and persons in the performance of their duties, or to confer, define or regulate their powers and the exercises thereof, shall remain in full force and effect unless and until such regulation or order is abrogated or provision is made in the like matter by some regulation or order made by competent authority under this chapter ;--nor shall any thing in this chapter be construed to prevent any person from being at the same time an officer or servant of the British and of the Provincial Post Office. 13, 14 V. c. 17, s. 3.

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Commissions, &c., to be valid. 5. Any commission, appointment or regulation made after the tenth day of August, 1850, (the day of the passing of the Act 13, 14 V. c. 17,) and before it came fully into force, but limited to take effect only at some time after it should be in force, shall be and has been since the time so limited, as valid and of the same effect as if made after the coming into force of the said Act. 13, 14 V. c. 17, s. 1--*part.*

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Acts repealed. 6. All Acts or parts of Acts or provisions of law in force before the said tenth day of August, 1850, relative to matters subject to the control and jurisdiction of the Provincial Legislature, and with regard to which provision is made by this chapter, are repealed,—except in so far as it is otherwise herein-
Exceptions. after provided,—and except in so far as regards any postage, duty or sum of money due before the said repeal took effect, or any engagement contracted, penalty incurred, or offence committed before that time, which shall be received, collected, enforced, recovered and punished, under such Acts, parts of Acts and provisions of Law, and as to which they shall remain in full force and effect. 13, 14 V. c. 17, s. 1--*part.*

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Privileges of Her Majesty's Postmaster General or of the Parliament of the United Kingdom not to be derogated from. 7. Nothing in this chapter shall be construed as intended to derogate from or impair the effect of any Act of the Parliament of the United Kingdom, or of any regulation or order made under such Act, or to affect the privileges, powers or authorities of Her Majesty's Postmaster General, his Deputies, Servants or Agents, or of the Commissioners of Her Majesty's Treasury, otherwise than as respects the Posts or Post communications within this Province, and the rates of Postage to be charged for the conveyance of letters and other things by Post within the same. 13, 14 V. c. 17, s. 1--*part.*

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POSTMASTER GENERAL AND STAFF OF THE DEPARTMENT.

8. The Provincial Postmaster General (hereinafter referred to as the Post Master General) shall be appointed by Commission under the Great Seal of this Province, and to hold his office during pleasure, but the Postmasters and other Officers of the Department shall be appointed and may be removed by letter from the proper Officer communicating the Governor's pleasure. 13, 14 V. c. 17, s. 5--part. Appointments, how made.

9. The Postmaster General may from time to time, by commissions under his hand and seal of office, nominate fit and proper persons as his Deputies, to be and to be called Inspectors of Post Offices, and to be stationed at such places and to exercise their powers and perform their duties and functions within such limits respectively as he may from time to time appoint : Appointment of Inspectors of Post Offices.

15 And it shall be the duty of such Inspectors of Post Offices, under such instructions as may from time to time be given to them by the Postmaster General,—to superintend the performance of the Mail service, taking care that, as far as the state of the roads and other circumstances will permit, the stipulations of all contracts for the conveyance of the Mail are strictly complied with by the Contractors,—to make Monthly reports to the Postmaster General of the manner in which the Mail has been carried on each route, stating what fines they recommend should be imposed,—to instruct new Postmasters in their duties,—to keep the Postmasters to their duty in rendering accounts and paying over their balances,—to examine at every Post Office from time to time the Books of Mails received at and sent from the same, and to see that they are properly kept, and that the Received Bills are properly numbered and filed, and that the Postmasters and their Assistants perfectly understand their instructions, and perform their duty well in every particular,—to inquire into complaints of losses of money letters,—and generally to do all and whatsoever they are from time to time lawfully instructed or required by the Postmaster General, to do for the service of the Post Office Department. Duties of such Inspectors.

14, 15 V. c. 71, s. 16, as amended by 18 V. c. 79, s. 3.

10. Except the Postmaster General, the Deputy Postmaster General and the Superintendent of the Money Order Branch, no officer appointed or continued in office under this chapter shall receive from any Provincial source more than five hundred pounds per annum, (and in proportion for any shorter period) in salary or emoluments, or both; the salary of the Postmaster General shall not exceed twelve hundred and fifty pounds per annum;—Nor shall any officer whose salary is limited by the *Act relating to the Civil Service generally*, receive a greater salary than that so limited :—And except Postmasters, who may be paid by a per centage on the amount Salaries and emoluments limited.

Cap. 11 cited.

Postmasters, collected by them or by a salary, as the Governor in Council sees fit in each case, each officer shall be remunerated by a stated salary or pay, subject to the provisions of the laws last cited. 13, 14 V. c. 17, s. 4, as amended by 18 V. c. 79, s. 2, and 20 V. c. 24.

No allowances to Clerks for extra services.

11. No allowance or compensation shall be made to any Clerk or other Officer in the General Post Office, by reason of the discharge of duties which belong to any other Clerk or Officer in the same Department;—And no allowance or compensation shall be made for any extra service whatever which any such Clerk or Officer may be required to perform. 14, 15 V. c. 71, s. 18.

LIMITATION OF RATES OF POSTAGE, AND EXEMPTIONS FROM POSTAGE

Under agreement with the other Colonies.

Agreement with other Colonies to be carried into effect.

12. And in conformity to the agreement made between the Local Governments of the several Colonies of British North America, for carrying into effect the powers conferred on them by the Imperial Act last above cited :

Provincial postage, rates of.

1. The Provincial Postage on letters and packets not being of Newspapers or Printed Pamphlets, Magazines or Books, entitled to pass at lower rate, shall not exceed the rate of three pence currency, per half ounce, for any distance whatever within this Province, any fraction of a half ounce being chargeable as a half ounce ;

Transit postage.

2. No transit postage shall be charged on any letter or packet passing through this Province or any part thereof to any other Colony in British North America, unless it be posted in this Province and the sender chooses to pre-pay it ; nor on any letter or packet from any such Colony if pre-paid there ;

Letters by British Mails, &c.

3. Two pence sterling the half ounce shall remain as the rate in operation as regards letters by British Mails, to be extended to Countries having postal conventions with the United Kingdom, unless Her Majesty's Government in the United Kingdom sees fit to allow this rate to be changed to three pence currency ;

Pre-payment optional.

4. The pre-payment of Provincial Postage shall be optional ;

Appropriation of Provincial Postage.

5. All Provincial Postage received within this Province shall be retained as belonging to it, and all Provincial Postage received within any other of the British North American Colonies, may be retained as belonging to such Colony ;

Of British Packet Postage and Colonial Postage.

6. The British Packet Postage and other British Postage collected in this Province shall be accounted for and paid over to the proper authorities in the United Kingdom ; but the Colonial

Colonial Postage on the same letters or packets shall belong to the Colony collecting it, or if pre-paid to the British Post Office, it may be credited to the Colony to which such letters or packets are addressed ;

5 7. No privilege of franking shall be allowed as regards Provincial Postage ; Franking.

8. Provincial Stamps for the pre-payment of postage may be prepared under the orders of the Governor in Council, which stamps shall be evidence of the pre-payment of Provincial postage to the amount mentioned on such stamp ;—And such stamps prepared under the direction of the proper authorities in the other British North American Colonies, shall be allowed in this Province as evidence of the prepayment of Provincial postage in such other Colonies respectively, on the letters or packets to which they are affixed, and which have been mailed there ; Stamps.

9. The Provincial Postage on Newspapers, Pamphlets, Magazines and Printed Books, shall remain such as it was on the said fifth day of April, 1851, except in so far as it is altered by this chapter or by any regulation made under the said Act or under this chapter, and in cases where they were free of postage on the said day, they shall continue to be so free ; And such postage shall not be raised by any such regulation, but may be thereby diminished in any case or class of cases ; And if any regulation be made by the proper authorities in any other of the British North American Colonies, diminishing the postage thereon in such Colony, or directing that none shall be payable in any case or class of cases, then in the case or cases to which such regulation applies, such diminished postage only (if not pre-paid), or no postage (as the case may be), shall be payable in this Province ; Newspapers, &c.

10. Provided that one copy of each Newspaper published in this Province may be sent free from postage to any Publisher of another Newspaper in this Province ;—And that all printed documents addressed to the Publisher of any Newspaper in this Province and addressed to all Newspapers published in this Province and addressed to Subscribers in the United States, shall pass free to the Province Line, under such regulations as the Governor in Council shall make to prevent the abuse of the privileges hereby granted ; * Proviso—in favor of publishers of newspapers.

11. The rate of remuneration for the transport of British Mails by express through the Provinces of Nova Scotia and New Brunswick, may from time to time be fixed by arrangement to be made between the Government of this Province, and the other Provinces or Governments concerned ; Transport of British Mails.

12.

* NOTE.—The other Provinces seem scarcely to be interested in any provision in this section, except the second.

Interpretation
of Agreement.

12. Provided always, That if it appears to the Local Governments or proper authorities of the several Colonies of British North America, and of the United Kingdom, and the Governor in Council, that the foregoing conditions and provisions of this section, or any of them, are not or is not in accordance with the true intent and meaning of the Agreement aforesaid, then the Governor in Council may declare what was and the true intent and meaning thereof in the case in question, and the foregoing conditions shall then be construed and have effect as if the conditions so declared to be correct and have been inserted in this section, instead of that declared to be inconsistent with the said agreement, unless and until it be otherwise ordered by the Provincial Parliament. 13, 14 V. c. 17, s. 8—part.

In cases in which the other Colonies are not concerned.

Enactments
not affected
by preceding
section.

13. The enactments in this section do not depend on the Agreement referred to in the next preceding Section,—but until it is otherwise ordered by the Provincial Legislature :

Newspapers
printed in the
Province,
when to pass
free.

1. Newspapers printed and published within this Province and addressed from the Office of Publication, shall be transmitted from the Post Office where mailed, to any other Post Office in Canada, or to the United Kingdom, or to any British Colony or Possession, or to France, free of Canadian postage; 20 V. c. 25, s. 2.

And when
printed in Her
Majesty's Do-
minions and
in France.

2. Newspapers printed and published in the United Kingdom, or in any British Colony or Possession, or in France, when received in mails addressed to this Province and directed to any place in Canada, shall pass through the Post and be delivered at the Post Office addressed, free of Canadian postage; 20 V. c. 25, s. 3.

What shall be
deemed news-
papers.

3. For the purposes of this Section, the word "newspaper" shall be held to mean periodicals published not less frequently than once in each week, and containing notices of passing events, or any such newspaper published fortnightly or monthly at the time of the passing of the Act 20 V. c. 25, 10th June 1857;—20 V. c. 25, s. 4.

Certain other
periodicals to
pass free.

4. Periodicals printed and published in this Province other than newspapers, when specially devoted to Religious and General Education, to Agriculture or Temperance, or to any branch of Science and addressed directly from the Office of Publication, shall be transmitted from the Post Office where mailed to any other Post Office in this Province free of postage; 20 V. c. 25, s. 5.

Certain De-
partmental
mailable mat-
ter to pass
free.

5. All Letters and other mailable matter addressed to or sent by any Public Department at the seat of Government, shall be free of Provincial Postage under such regulations as may be directed by the Governor in Council; 18 V. c. 79, s. 4.

6. Letters and other mailable matter addressed to or sent by the Speaker or Chief Clerk of the Legislative Council or of the Legislative Assembly, or to or by any Member of the Legislature at the Seat of Government, during any Session of the Legislature, or addressed to any of the Members or Officers in this section mentioned, at the Seat of Government as aforesaid, during the ten days next before the meeting of Parliament, shall be free of postage ; 20 V. c. 25, s. 6. Mailable matter addressed to or sent from Legislative Council or Legislative Assembly to pass free.

7. All public documents and printed papers may be sent by the Speaker or Chief Clerk of the Legislative Council or of the Legislative Assembly, to any Member of either of the said branches of the Legislature of Canada, during the recess of Parliament, free of Postage ; 18 V. c. 79, s. 6. Public documents, &c. may be sent free to members in recess.

8. Members of either branch of the Legislature of Canada may, during the recess of Parliament, send by Mail, free of Postage, all papers printed by order of either branch of the Legislature of Canada. 18 V. c. 79, s. 7. Members may send them free.

POWERS OF THE GOVERNOR IN COUNCIL.

14. Subject to the provisions of the two next preceding sections and to the other express provisions of this chapter, the Governor in Council may make orders and regulations for the following purposes :

1. For establishing or discontinuing any Post Office or Post Route, and for taking security from any parties to make good the deficiency or any part thereof, in the receipts of such Office or Route, to meet the expenses incurred by its establishment ; Post Offices and routes, and securities.

2. For defining the powers and duties of the Officers of and persons employed by or under the Provincial Post Office, and regulating all matters concerning the conduct and management of the business thereof, and for prescribing the form of the oath of office to be taken by such officers or persons which oath may be varied so as to meet the duties to be performed, and the offences to be avoided by such officers or persons ; Powers and duties of the Officers.

3. For establishing the rates of postage on Newspapers and Printed Pamphlets, Magazines and Books, and declaring what shall be deemed such, or for directing that in any case or class of cases they shall be free of postage, either in the first instance or in the case of their being re-mailed, and what shall be the conditions to be complied with in order to enable them to pass without being subject to letter postage, to which they shall be subject if such conditions are not complied with, and for authorizing the opening thereof by any officer or person, for the purpose of ascertaining whether such conditions have been complied with ; Rates of postage on newspapers, &c.

Stamps.

4. For the preparing and distributing of Provincial stamps for pre-payment ;

Weight of letters, &c., and prohibition of dangerous articles.

5. For limiting the weight and dimensions of letters or packets to be sent by Post, and for prohibiting and preventing the sending of explosive, dangerous, contraband or improper articles ;

Arrangements with other Countries for transmission of Mails, &c.

6. For making, authorizing, sanctioning or giving effect to any arrangements which require to be made with the Government or with the postal authorities of the United Kingdom or of any British Possession, or of the United States, or any Foreign Country, with regard to the collecting and accounting for postage, the transmission of Mails and other matters connected with Posts and Postal business, and the remuneration or indemnity to be paid or received under any such arrangement ;

Letters relative to Post Office business.

7. For prescribing the conditions and circumstances under which letters, accounts and papers relating solely to the business of the Post Office, and addressed to or sent by some officer thereof, shall be free from Provincial Postage ;

Preventing Foreign Mails passing through the Province.

8. For preventing, in cases where he deems it expedient, the carriage of Foreign Mails or of Foreign mailable matter, not mailed in this Province, through any part thereof from one part of a Foreign Country to another part of the same ;

Money orders.

9. For providing, when he deems it expedient, means for avoiding the risk of transmitting small sums of money through the Post, by establishing a system of money orders to be granted by one Post Master or officer of the department on another, and fixing the terms on which such orders may be obtained ;

Registering letters.

10. For establishing a system for the Registering of letters and the charge to be made for such registration ;

Opening letters in certain cases.

11. For vesting in any officer or officers, power to open letters or packets having no address upon them, or refused by the party to whom they are addressed, or where such party cannot be found after proper enquiry, or on which any Foreign or other Postage which ought to be pre-paid, has not been so, or which contain or are reasonably supposed to contain any article lawfully forbidden to be sent by Post, or which for any other cause cannot lawfully be transmitted by Post, or cannot within a reasonable time be delivered to the party to whom they are addressed or to any party legally entitled to receive them, — And for prescribing the regulations under which such letters and packets shall be opened, the notice which shall be previously given, the proceedings which shall be adopted after such opening, the keeping or otherwise dealing with any money or other articles

article found therein, and other matters thereunto appertaining or relating ;

12. For making a reasonable compensation to the Masters of Vessels and others for letters conveyed by them from any places without the limits of the Province, and brought by them to the Post Office for delivery ;

Compensation to Masters of Vessels for letters conveyed by them.

13. For the delivery of letters and packets in the larger and more populous Cities and Towns, at the residences of the parties to whom they are addressed, and for fixing the limits within which such delivery shall take place, and the rates to be paid by the parties who prefer to have their letters and packets so delivered rather than to apply for them at the Post Office, and upon letters posted and delivered at the same Post Office or in the same City, Town and place ;

Delivery of letters at private residences in Cities.

14. For imposing pecuniary penalties not exceeding fifty pounds for any one offence, on persons offending against any such regulation as aforesaid, whether they be or be not officers of the Post Office ;

Penalties for offences.

15. And generally to make such regulations as he deems necessary for the due and effective working of the Post and Postal business and arrangements, and for carrying this chapter fully into effect ;

Regulations for the due working of the Postal business.

16. And every such regulation as aforesaid, may from time to time be repealed or amended by any subsequent regulation made in like manner ;—And every such regulation shall, until it be otherwise ordered by any subsequent regulation, have force and effect as if it formed part of the provisions of this chapter, unless it be inconsistent with the enactments thereof. 13, 14 V. c. 17, s. 8—*part.*

Regulations may be repealed or amended.

15. The provisions of the *Act respecting Duties of Customs and the Collection thereof*, relative to the publication and proof of regulations or orders made under it and to the time of their coming into force, shall apply to the publication and proof of regulations and orders made under this chapter and to the time of their coming into force ;—And any bond or security required or authorized by any such regulation or by any order of the Governor in Council, in any matter relative to the Provincial Post Office, or to the observance of any provision of this chapter or of any regulation or order made under it, shall be valid in law and may be enforced according to its tenor on breach of the condition thereof. 13, 14 V. c. 17, s. 19—*part.*

Proof of regulations or orders—provisions of cap. 17 to apply.

Bonds or securities.

16. No Regulation shall be made under this chapter, on any point expressly provided for by this Chapter, nor shall any such Regulation be inconsistent with it. 14, 15 V. c. 71. s. 1.

Regulations not to be inconsistent with this Act.

EXCLUSIVE PRIVILEGE OF THE POSTMASTER GENERAL—AND
EXCEPTIONS FROM IT.

Exclusive privilege of Postmaster General for conveying letters, &c.

Exceptions.

17. Subject always to the provisions and regulations aforesaid, and the exceptions hereinafter made, the Postmaster General shall have the sole and exclusive privilege of conveying, receiving, collecting, sending and delivering letters within this Province;—And (except in the cases hereinafter excepted) any person who collects, sends, conveys or delivers or undertakes to convey or deliver any letter within this Province, or who receives or has in his possession any letter for the purpose of conveying or delivering it, otherwise than in conformity with this chapter, shall, for each and every letter so unlawfully conveyed or undertaken to be conveyed, received, delivered or found in his possession, incur a penalty not exceeding five pounds currency :

Such exclusive privilege not to apply to certain letters, &c.

But such exclusive privilege, prohibition and penalty shall not apply to—

Letters sent by a private friend in his way, journey or travel, provided such letters be delivered by such friend to the party to whom they are addressed ;

Letters sent by a messenger on purpose, concerning the private affairs of the sender or receiver ;

Commissions or returns thereof, and affidavits or writs, process or proceedings or returns thereof, issuing out of a Court of Justice ;

Letters addressed to a place out of the Province and sent by sea and by a private vessel ;

Letters lawfully brought into this Province, and immediately posted at the nearest Post Office ;

Letters of merchants, owners of vessels of merchandize, or of the cargo or loading therein, sent by such vessel of merchandize, or by any person employed by such owners for the carriage of such letters according to their respective addresses, and delivered to the persons to whom they are respectively addressed, without pay, hire, reward, advantage or profit for so doing ;

Letters concerning goods or merchandize sent by common known carriers to be delivered with the goods to which such letters relate, without hire or reward, profit or advantage for receiving or delivering them ;

But nothing herein contained shall authorize any person to collect any such excepted letters for the purpose of sending or conveying

conveying them as aforesaid;—or shall oblige any person to send any Newspaper, Pamphlet or Printed Book by Post. 13, 14 V. c. 17, s. 9.

18. Any person may, and any Officer or person employed in the Provincial Post Office, or in the collection of the Revenue shall,—seize any letters conveyed, received, collected, sent or delivered in contravention of this chapter, and take them to the nearest Post Office, and give such information to the Postmaster as he may be able to give, and as is necessary for the effectual prosecution of the offender;—and the letters shall moreover be chargeable with letter Postage. 13, 14 V. c. 17, s. 10.

Letters sent contrary to this chapter to be seized.

BRANCH OFFICES AND DELIVERY IN CITIES, &C.

19. The Postmaster General shall, when in his judgment the public interest or convenience requires it, establish one or more Branch Post Offices to facilitate the operation of the Post Office in any city or place which in his opinion requires such additional accommodation for the convenience of the inhabitants; and he shall prescribe the rules and regulations for the Branch Post Offices established by virtue of this chapter; and no additional Postage shall be charged for the receipt or delivery of any letter or packet at such Branch Post Office. 14, 15 V. c. 71, s. 14.

Branch Post Offices in Cities.

20. The Postmaster General may, whenever the same may be proper for the accommodation of the public in any city, employ Letter Carriers, for the delivery of letters received at the Post Office in such city, (except such as the persons to whom they are addressed may have requested, in writing addressed to the Postmaster, to be retained in the Post Office,) and for the receipt of letters at such places in the said city as the Postmaster General may direct, and for the deposit of the same in the Post Office:

City Letter Carriers.

2. And for the delivery by a Carrier of each letter received from the Post Office, the person to whom the same is delivered shall pay not exceeding one penny, and for the delivery of each newspaper and pamphlet one half-penny, and for every letter received by a Carrier to be deposited in the Post Office, there shall be paid to him, at the time of the receipt, not exceeding one half-penny;—all of which receipts, by the Carriers in any city, shall, if the Postmaster General so direct, be accounted for to the Postmaster of the said city, to constitute a fund for the compensation of the said Carriers, and to be paid to them in such proportions and manner as the Postmaster General may direct;

Penny Post Office for City Delivery.

3. Each of such Carriers shall give bond, with sureties to be approved by the Postmaster General, for the safe custody and delivery

Carriers to give bond, with sureties.

delivery of all letters, and for the due account and payment of all moneys received by him. 14, 15 V. c. 71, s. 15.

PAYMENT OF POSTAGE.

Postage, when payable.

21. As well the Colonial, British or Foreign as the Provincial postage on any letter or packet shall (if not pre-paid) be payable to the Postmaster General by the party to whom the same is addressed, or who may lawfully receive such letter or packet, which may be detained until the postage paid;—And any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or packet, which shall be detained and dealt with accordingly, but if the same is delivered, the postage on it shall be charged against and paid by the Postmaster delivering it, saving his right to recover it from the party by whom it was due, as money paid for such party :

Letter, &c. refused, postage recoverable.

2. If any letter or package is refused, or if the party to whom it is addressed cannot be found, then the postage shall be recoverable by the Postmaster General from the sender of such letter or packet ;

Postage marked on the letter, to be deemed the true postage.

3. The postage marked on any letter or packet shall be held to be the true postage due thereon, and the party signing or addressing it shall be held to be the sender, until the contrary be shewn ;

How postage may be recovered.

4. And all postage may be recovered with costs, by civil action in any Court having jurisdiction to the amount, or in any way in which duties are recoverable. 13, 14 V. c. 17, s. 11.

Insufficient stamps to be disregarded.

22. In all cases where letters are posted for places without this Province, on which stamps for pre-payment are affixed of less value than the true rate of Postage to which such letters are liable,—or when stamps for pre-payment are affixed to letters addressed to any place as aforesaid for which pre-payment cannot be taken in this Province,—the Postmaster General may forward such letters, charged with postage, as if no stamp had been thereon affixed. 14, 15 V. c. 71, s. 17.

Post Master not bound to give change.

23. And for avoiding doubts, and preventing inconvenient delay in the delivery of letters,—no Postmaster shall be bound to give change, but the exact amount of the postage on any letter or packet shall be tendered or paid to him in current coin or in Provincial Postage Stamps. 13, 14 V. c. 17, s. 12.

POSTAGE ON LETTERS OF OFFICERS AND SOLDIERS.

As to letters of soldiers, seamen, &c.

24. In every case in which any Seaman in Her Majesty's Navy, Sergeant, Corporal, Drummer, Trumpeter, Fifer or Private Soldier in Her Majesty's service, or in the service of the

the East India Company, is entitled to receive or send letters on the payment of a certain sum and no more, in place of all British Postage thereon, the payment of such sum shall likewise free such letter from all Provincial Postage thereon :

5 2. And in all cases in which a letter or packet addressed to a Commissioned Officer of the Army, Navy, or Ordnance, or of any of the departments belonging thereto respectively, at a place where he has been employed on actual service, would be free from British Postage on the transmission thereof from such place to any place to which he has removed in the execution of his duty, before the delivery of such letter or packet, the same shall in like manner be free from Provincial Postage ;--And the Governor in Council may make such regulations declaratory and otherwise, as may be necessary for giving effect to this section. 13, 14 V. c. 17, s. 14.

Letters addressed to Commissioned Officers, &c.,

PROPERTY IN POST LETTERS,—DEAD LETTERS,—AND LETTERS CONTAINING CONTRABAND GOODS.

25. From the time any letter, packet, chattel, money or thing is deposited in the Post Office for the purpose of being sent by Post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed or the legal representatives of such party : And the Provincial Postmaster General shall not be liable to any party for the loss of any letter or packet sent by Post. 13, 14 V. c. 17, s. 15.

Post letters to be the property of party addressed.

Postmaster General not liable for loss.

26. Under such Regulations, and at such periods as may be directed by the Postmaster General, the Postmasters shall respectively send such of the Letters advertised by them, as remain on hand, to the Post Office Department as Dead Letters, where they shall be opened, and, whenever practicable, returned to the writers thereof, on payment of the postage, should any remain charged as unpaid upon such Dead Letters, with one penny additional on each Letter, to defray the cost of advertising, opening and returning the same ;--And if the writer of any such Dead Letter cannot be ascertained or found, the Postmaster General may, after retaining the same in his Office for such length of time as he deems expedient, cause the same to be destroyed :

Dead letters.

They may be destroyed after a certain time.

If any such Dead Letter, of which the writer cannot be ascertained or found, contains money, the Postmaster General may appropriate it to the use of the Department, keeping an account thereof, and the amount shall be paid by the Department to the rightful claimant as soon as he is found. 14, 15 V. c. 71, s. 10--part.

As to any money contained in them.

27. All advertisements of Letters uncalled for in any Post Office, made under the orders of the Postmaster General, in a newspaper or newspapers, shall be inserted in some newspaper

Unclaimed letters to be advertised &c.

newspaper or newspapers of the town or place where the Office advertising is situate, or of the town or place nearest to such Post Office, provided the Editor or Editors of such newspaper or newspapers agree to insert the same in three separate issues or publications of such newspaper or newspapers, for a price not greater than three farthings for each Letter. 14, 15 V. c. 71, s. 10--*part.* 5

Letters suspected to contain contraband goods may be detained.

28. The Postmaster General, or any Postmaster by him to that effect duly authorized, may detain any Post Letter suspected to contain any contraband goods, wares or merchandize, or any goods, wares or merchandize on the importation of which into this Province any duties of Customs are by law payable, and forward the same to the nearest Collector of Her Majesty's Customs, who, in the presence of the person to whom the same may be addressed, or in his absence, in case of non-attendance after due notice, in writing from such Collector requiring his attendance, left at or forwarded by the post according to the address on the letter, may open and examine the same ;—And if on any such examination any contraband goods, wares or merchandize, or any goods, wares or merchandize on the importation of which into this Province any duties of Customs are by law payable, are discovered, such Collector may detain the letter and its contents for the purpose of prosecution ;—and if no contraband goods, wares or merchandize, or any goods, wares or merchandize on the importation of which into this Province any duties of Customs are by law payable, are discovered in such letter, it shall, if the party to whom it is addressed is present, be handed over to him on his paying the postage (if any) charged thereon, or if he is not present, it shall be returned to the Post Office and be forwarded to the place of its address. 16 V. c. 8, s. 8. 10 15 20 25 30

Proceedings in such case.

TOLLS—AND FERRIES.

In what cases only vehicles carrying the mail shall be exempt from toll.

29. No Mail stage, or other winter or summer vehicle carrying a Mail, shall be exempt from tolls or dues on any road or bridge in this Province, unless in the Act or Charter authorizing such road or bridge, it is specially so provided ;— But in respect of contracts existing on the tenth day of November, 1852, the exemption which existed theretofore shall be continued, unless on the arrival of the stage or vehicle at the toll-house, toll-bar, or other place where tolls or dues for the use of such road or bridge are collected, there are more than four passengers and an ordinary allowance of baggage for each passenger in or on such Mail stage or other winter or summer vehicle carrying the Mail as aforesaid. 16, V. c. 8, s. 9. 35 40

Ferryman not bound to carry over mails gratis.

30. All enactments or provisions of law obliging ferrymen to transport any mail across their ferries without remuneration are repealed ; and the sum to be paid for such service shall be fixed 45

fixed by contract, or if any ferryman demands more than the Post Office authorities or the contractor for carrying the mail are willing to pay, the amount to be paid shall be fixed by arbitrators, each party naming an Arbitrator, and the two Arbitrators naming a third, the decision of any two Arbitrators to be binding. 13, 14 V. c. 17, s. 7.

UNITED STATES MAILS PASSING THROUGH CANADA.

31. The Postmaster General may from time to time, with the approval of the Governor in Council, make any arrangement which he deems just and expedient, for allowing the mails of the United States to be carried or transported at the expense of the said United States over any portion of this Province, from any one point in the territory of the said United States to any other point in the same territory, upon obtaining the like privilege for the transportation of the Mails of this Province through the United States when required. 16 V. c. 8, s. 4.

P. M. G. may allow U. S. mails to be carried through Canada on certain conditions.

32. Every United States Mail so carried or transported as last aforesaid shall, while within this Province, be deemed and taken to be a Mail of Her Majesty, so far as to make any violation thereof, any depredation thereon, or any act or offence in respect thereto or to any part thereof, which would be punishable under the existing Laws of this Province if the same were a Mail or part of a Mail of this Province, an offence of the same degree and magnitude and punishable in the same manner and to the same extent as though the same were a Mail or part of a Mail of this Province ;--And in any indictment for such act or offence, such Mail or part of a Mail may be alleged to be, and on the trial of such indictment shall be held to be a Mail or part of a Mail of this Province ;--And in any indictment for stealing, embezzling, secreting or destroying any Post letter, Post letter-bag, packet, chattel, money or valuable security sent by Post through and by any of the said United States Mails as aforesaid, in the indictment to be preferred against the offender, the property of such Post letter, Post letter-bag, packet, chattel, money or valuable security sent by Post as herein mentioned, may be laid in the Postmaster General,—and it shall not be necessary to allege in the indictment or to prove upon the trial or otherwise, that the Post letter, Post letter-bag, packet, chattel or valuable security was of value. 16 V. c. 8, s. 5.

Such mails to be deemed H. M's. mails as regards the punishment of offences committed in respect thereof.

Property of letters, &c., may be laid in P. M. G.

DEPARTMENTAL MATTERS—POWERS OF POSTMASTER GENERAL.

33. Subject to the provisions of this Chapter, and to the regulations to be made under it, and the instructions he receives from the Governor, the Postmaster General may—

Certain powers vested in the Provincial Postmaster General :

1. Open and close Post Offices and Mail Routes,—

To open and close Post offices, &c ;

e.

To suspend any Postmaster, &c ;

2. Suspend any Postmaster or other officer or servant of the department until the pleasure of the Governor be known, and to appoint a person to act in the mean time in the place and stead of such officer or servant ;

To enter into and enforce all contracts, &c ;

3. Enter into and enforce all contracts relating to the conveyance of the Mail, the local accommodation of the department and to other matters connected with the business thereof ;

To make rules and orders &c, for the business of the department ;

4. Make rules and orders for the conduct of and management of the business and affairs of the Department, and for the guidance and government of the officers and servants thereof, in the performance of their duties ;

To sue for and recover sums of money, &c.

5. And to sue for and recover all sums of money due for postage or penalties under this Chapter, or by any Postmaster or officer, or servant of the department, or his sureties ;

Each officer, &c., to be deemed the deputy of the P. M. G.

6. All such powers may be lawfully exercised by the Postmaster General or by any Postmaster, officer, servant or party deputed by him to exercise the same, or whose act in that behalf he shall approve, confirm or adopt ; And each officer, servant or party employed in the Post Office, shall, as regards the duties attached to the office held by him, be deemed the Deputy of the Postmaster General ;—And the Governor in Council may by regulation direct by what officer or person the duties of any office shall be performed *pro tempore* in case of the death, resignation or unforeseen absence or inability to act, of the person holding or having held such office. 13, 14 V. c. 17, s. 13—*part.*

In case of death, resignation, &c.

Post routes may be discontinued in certain cases.

34. Except as hereinafter provided, every Post Route which, within the term of three successive years, fails to yield one-fourth of the expense incident to its establishment, shall be discontinued by the Postmaster General, unless in cases where it is necessary as a connection or continuance of a route or routes :—Provided that this section shall not be so applied as to deprive the Seat of Justice in any Circuit or County of one Mail going to and from the same. 14, 15 V. c. 71, s. 13.

Provido.

DEPARTMENTAL MATTERS—POSTMASTERS.

Certain Postmasters not to vote at the election of any member of the Legislative Council, or Legislative Assembly.

35. To the Postmasters at Quebec, Montreal, Three-Rivers and Sherbrooke, and at any incorporated City or Town in Upper Canada divided into Wards, and to the other Officers of the Post Office department, except only the Postmasters at places other than those aforesaid, all the provisions of the Act respecting Elections of Members of the Legislature, shall apply, as if they were officers of the Customs or Excise, and they shall not vote at the election of any Member of the Legislative Council or of the Legislative Assembly, under the penalties of

of the said chapter imposed for contravention thereof in like cases. 13, 14 V. c. 17 s. 5—part—as amended by 20 V. c. 22 ?

26. The Postmaster General shall upon the appointment of any Postmaster, require and take of such Postmaster a bond, with good and approved security, in such penalty as he deems sufficient, conditioned for the faithful discharge of all the duties of such Postmaster required by law, or which may be required by any instruction or general rule for the Government of the Department :

Postmasters to give bond.

2. And when any Surety of a Postmaster notifies to the Postmaster General his desire to be released from his suretyship, or when the Postmaster General deems it necessary, he may require such Postmaster to execute a new bond, with sureties, which bond, when accepted by the Postmaster General, shall be as valid as the bond given upon the original appointment of the Postmaster, and the Sureties in the prior bond shall be released from responsibility for all acts or defaults of the Postmaster done or committed subsequent to the acceptance of the new bond, the date of which acceptance shall be duly endorsed on such prior bond ;

Sureties may be changed.

3. Payments made subsequent to the execution of the new bond by such Postmaster, shall be applied first to the discharge of any balance then due on the old bond, unless he does, at the time of payment, expressly direct them to be applied to the credit of his new account ;

As to payments made after new bond.

4. And no suit shall be instituted against any Surety of a Postmaster after the lapse of two years from the death, resignation, or removal from office of such Postmaster, or from the date of the acceptance of a new bond from Postmaster. 14, 15 V. c. 71, s. 19.

Limitation of suits against sureties.

27. The Postmaster General may appoint the periods at which each Postmaster or person authorized to receive the postage of letters and packets, or any class or number of Postmasters or persons respectively, shall render his or their accounts,—And if any Postmaster or any such other person neglects or refuses to render his accounts, and to pay over to the Postmaster General the balance by him due at the end of every such period, the Postmaster General shall cause a suit to be commenced against the person or persons so neglecting or refusing. 14, 15 V. c. 71, s. 20—part—as amended by 20 V. c. 25,

Postmaster General to appoint periods for Postmasters to render their accounts.

In case of neglect, Postmaster to commence a suit.

28. If any Postmaster neglects to render his accounts for one month after the time and in the form and manner prescribed by the Postmaster General's instructions, he shall forfeit double the value of the postages which have arisen at the same office

Penalty for neglect.

office in any equal portion of time previous or subsequent thereto; or, in case no account has been rendered at the time of trial of such case, then such sum as the Court and Jury, if in Upper Canada, or the Court alone, if in Lower Canada, shall estimate to be equivalent thereto, shall be recovered by the Postmaster General in an action of debt on the bond against the Postmaster and his securities, and for which the securities shall be liable. 14, 15 V. c. 71, s. 21, as amended by 22 V. c. 25, s. 8.

Postmasters to render quarterly accounts of emoluments, under oath.

39. The Postmaster at each of the Cities of Quebec, Montreal, Kingston, Toronto and Hamilton in this Province, shall render Quarter-yearly Accounts to the Postmaster General, under oath, in such form as the latter shall prescribe, for the purpose of giving full effect to this section, of all emoluments or sums by them respectively received for boxes or pigeon-holes, or other receptacles for letters or papers, and by them charged for to individuals, or for the delivery of letters or papers at or from any places in such Cities respectively other than the actual Post Offices of such Cities respectively, and of all emoluments, receipts and profits that have come to their hands by reason of keeping Branch Post Offices in such Cities respectively :

Emoluments not to exceed £500 per annum.

In case of excess, balance to be paid to P. M. G.

2. And whatever sum appears from such account to have been received by the Postmaster at any City for such boxes and pigeon-holes, and other receptacles for letters and papers, and for delivering letters or papers at or from any place in such City other than the said Post Office, and by reason of keeping a Branch Post Office or Branch Post Offices in such City, shall be then paid to the Postmaster General for the use of the Post Office Department;—And no Postmaster shall, under any pretence whatsoever, have or receive or retain for himself, any greater or other allowance or emolument of any kind, than the amount of his salary as fixed by the *Act respecting the civil service generally*. 14, 15 V. c. 71, 22.

DEPARTMENTAL MATTERS—CONTRACTS AND CONTRACTORS.

Mode of advertising for tenders for mail service.

40. The Postmaster General, before entering into any contract for carrying the Mail involving an annual cost of more than fifty pounds per annum, shall give public notice, for at least six weeks in one or more of the newspapers published in or nearest to the County or Counties where the contract is to be performed,—that such Contract is intended to be made, and of the day on which it is to be concluded, describing the places from and to which such Mail is to be conveyed, the mode and frequency of its transportation, the time at which it is to be made up, and the day and hour at which it is to be delivered.

delivered ;—And he shall also give such notice in a newspaper published at the Seat of Government in all cases in which according to his judgment the public interest requires such advertisement ;—He shall, moreover, within ninety days after the making of any contract, lodge a duplicate thereof in the Office of the Inspector General of this Province :—No Contract shall be entered into for a longer term than four years, and the Postmaster General may make temporary contracts for such services until a regular letting in the form prescribed can take place.

Duplicate of contract to be lodged with the Insp. Gen.

No contract to be for a longer term than four years.

14, 15 V. c. 71, s. 2, as amended by 16 V. c. 8, s. 2.

41. No additional compensation shall be made to any Mail Contractor so as make the compensation for addition regular service exceed the exact proportion which the original compensation bears to the original services stipulated to be performed ;—And no extra allowance shall be made by the Postmaster General to any Contractor, for an increase of expedition in the transportation of the Mail, unless thereby the employment of additional stock or carriers by the Contractor is rendered necessary ; and in such case, the additional compensation shall never bear a greater proportion to the additional stock or carriers rendered necessary than the sum stipulated in the original contract bears to the stock and carriers necessarily employed in its execution. 14, 15 V. c. 71, s. 3.

Additional compensation limited.

42. Proposals for Mail contracts shall be delivered to the Department sealed, and shall be kept sealed until the bid-dings are closed, and shall then be opened in the presence of the Postmaster General ;—And the contracts in all cases in which there is more than one tender, shall be awarded to the lowest bidder tendering sufficient security for the faithful performance of the contract, unless the Postmaster General is satisfied that it is for the interest of the Public not to accept the lowest tender :

Proposals for mail contracts to be sealed.

Lowest bidder to be accepted.

Exception.

2. The Postmaster General shall not be bound to consider the bid of any person who has wilfully or negligently failed to execute or perform a prior contract ; But in all cases where he does not give the Contract to the lowest bidder, he shall report his reasons therefor to the Governor, for the information of the Legislature. 14, 15 V. c. 71, s. 4.

P. M. G. to report reasons for not accepting lowest tender.

43. When in the opinion of the Postmaster General the lowest proposal received after public advertisement for the performance of the Mail contract is excessive, he shall not be compelled to accept the said proposal, but may in his discretion either re-advertise the said contract for further competition or offer to the persons from whom proposals have been received, each in his turn, beginning with the lowest, such sum as he deems an equitable and sufficient price for the said contract, and may enter into a contract with such of the said persons as will accept such offer. 16 V. c. 8, s. 3.

Proceedings when the P. M. G. deems the lowest tender excessive.

Postmaster may be allowed to be a contractor.

44. It shall be within the discretion of the Postmaster General to authorize and allow a Postmaster to undertake and perform a contract for the transportation of a Mail, subject to the regulations applying to all Mail contracts, when, in his opinion, the interests of the public service will be there-
by promoted. 16 V. c. 8, s. 7.

Tenders to be accompanied by a written guarantee.

45. Every proposal for carrying the Mail shall be accompanied by a written undertaking, signed by one or more responsible persons, to the effect that he or they undertake that the bidder will, if his bid be accepted, enter into an obligation, within such time as may be prescribed by the Postmaster General, with good and sufficient sureties, to perform the service proposed; and no proposal shall be considered unless accompanied by such written undertaking :

In case of failure to give guarantee.

2. If, after the acceptance of a proposal and notification thereof to the bidder, he fails to enter into an obligation within the time prescribed by the Postmaster General, with good and sufficient sureties for the performance of the service, then the Postmaster General shall proceed to contract with some other person for the performance of the said service, and shall forth-
with cause the difference between the amount contained in the proposal so undertaken, and the amount for which he has con-
tracted for the performance of the said service, for the whole period of the proposal, to be charged up against the said bidder and his surety or sureties, and the same may be immediately recovered for the use of the Post Office Department, in an action of debt in the name of the Postmaster General against either or all of the said persons. 14, 15 V. c. 71, s. 7.

Contracts for less than £50 per annum, how entered into.

46. The Postmaster General may at his discretion submit contracts for Mail transportation, involving an annual expense of less than fifty pounds, to public competition in the manner and form prescribed for contracts of a greater annual charge, or he may direct an agent to receive tenders for and execute such contracts on his behalf,—or he may in special cases con-
clude such contracts by private agreement when he conceives the public interest will be promoted by such a course;—But he shall not pay under any such contract made by private agreement, a higher rate of annual payment for the service to be performed, than is ordinarily paid for services of a like nature under contracts let by public advertisement. 14, 15 V. c. 71, s. 8.

Contracts not to be made with persons who have combined to keep back tenders.

47. No contract for carrying the Mail shall knowingly be made by the Postmaster General with any person who has entered into any combination, or proposed to enter into any combination to prevent the making of any bid for a Mail con-
tract by any other person, or who has made any agreement, or has given or performed or promised to give or perform any consideration whatever, or to do or not to do anything whatever, in

in order to induce any other person not to bid for a Mail contract;—And if any person so offending be a Mail Contractor, he may be forthwith dismissed from the service of the Department:—But whenever the Postmaster General exercises the power conferred on him by this section, he shall transmit to the Governor, a copy or statement of the evidence on which he acts. 14, 15 V. c. 71, s. 9.

48. The Postmaster General may contract for conveying the Mail with any Railway Company in this Province, either with or without advertising for such contract. 14, 15 V. c. 71, s. 11.

Postmaster General may contract with any Railway Company.

49. The Postmaster General shall keep recorded, in a well bound Book, a true and faithful abstract of offers made to him for carrying the Mail, embracing as well those which are rejected as those which are accepted;—the said abstract to contain a description of each contract advertised for public competition, the dates of the offers made, the dates at which they were received by the Postmaster General, the names of the parties offering, the terms on which they propose to carry the Mail, the sum for which it is offered to contract, and the length of time the agreement is to continue;—And the Postmaster General shall also put on file and preserve the originals of the propositions of which abstracts are here directed to be made, and shall report at each session of the Provincial Parliament a true copy from the said record of all offers made for carrying the Mail as aforesaid. 14, 15 V. c. 71, s. 5.

Abstracts of tenders to be recorded.

Originals to be preserved.

50. If any person employed in the Post Office Department becomes interested in any Mail contract, or acts as agent, with or without compensation, in any matter or thing relating to the business of the said department, for any contractor or person offering to become a Contractor,—he shall be forthwith dismissed from office. 14, 15 V. c. 71, s. 6.

Persons employed in the Department not to be interested in contracts, &c.

DEPARTMENTAL MATTERS—POSTMASTER GENERAL'S REPORTS.

51. The Postmaster General shall make to the Governor, annually, so that they may be laid before the Provincial Parliament within ten days after the meeting thereof in each Session, the following Reports, which shall be made up to the thirtieth day of September then last, that is to say:

Annual report to Parliament.

First. A Report of the finances, receipts and expenditure of the Post Office Department for the year ending on the thirtieth day of September previous, in the form of a General Account Current, shewing on the one side the whole amount of balances due to the Department from Postmasters or others at the time up to which the then last report was made, the whole amount of Postage that accrued within the year elapsed since such last report, and any and every other item of revenue

General account current;

or

or receipt;—and on the other side of the Account, the charges and expenditures incurred by the Department within the said year, of every kind and nature, shewing in separate amounts the charges for Mail transportation, for salaries and commission and allowances to Postmasters, for printing and advertising, and for incidental and miscellaneous items of expenditure, shewing also the balance remaining due from Postmasters and others at the close of such year;—and shewing in the shape of a Balance what the result of the operations of the Department is for the said year, whether to produce a surplus of revenue in excess of expenditure, or to cause the expenditure to exceed the revenue, and in either case, to what amount;

Balance;

All payments in detail, &c;

Second. A Report shewing in detail all payments made and charges incurred for Mail transportation during the said year, stating in each case the name of the contractor or party receiving payment, the Mail Route, the mode and frequency of transportation, and the sums paid;

Salaries in detail, &c;

Third. A Report in detail of all charges for salaries, commissions and allowances, shewing in each case the name of the person, the service or duty performed, and the amount paid;

The expenditure in detail;

Fourth. A Report in detail of the expenditure of the Department within the said year for printing and advertising, and for all incidental and miscellaneous items of disbursement, shewing the sum paid under each head of expenditure, and the names of the persons to whom paid;

Contracts for the transportation of the mail;

Fifth. A Report of all contracts made for the transportation of the Mail within the year ending on the thirtieth day of September next preceding such report, stating in each case of contract its date and intended duration, the name of the Contractor, the routes embraced in the contract, with the length of each, with the times of arrival and departure at the ends of each route, the mode of transportation contracted for, and the price stipulated to be paid by the Department;

Allowances to contractors;

Sixth. A report of all allowances made to Contractors within the said year, beyond the sums originally stipulated in their respective contracts, and the reasons for the same, and of all orders made by the Department whereby additional expense is or will be incurred beyond the original contract price on any land or water route,—specifying in each case the route to which the order relates, the name of the contractor, the original service provided by the contract, the original price, the date of the order for additional service, the additional service required, and the additional allowance therefor,—also a Report of all curtailments of expenses effected by the Department within the said year, specifying in each case the same particulars, as required in cases of additional allowances;

Curtailment of expenses;

Seventh.

Seventh. A Report of all fines imposed and deductions from the pay of Contractors made during the said year, for failures to deliver the Mail or for any other cause, stating the names of the delinquent Contractors, the nature of the delinquency, the route on which it occurred, the time when the fine was imposed, and whether the fine has been remitted, or order for deduction rescinded, and for what reason; Fines imposed;

Eighth. A Report of the new Offices and Post Routes established, and of the Offices and Post Routes discontinued or closed within the said year, shewing in the case of each Office and Post Route discontinued or closed, the reason for the proceeding; New Offices and Post routes;

Ninth. A report of all cases occurring within the said year of the abstraction or loss of letters containing money sent through the Post, shewing the particulars of each case, and stating the result of the proceedings instituted therein by the Department; 14, 15 V. c. 71, s. 12, as amended by 12 V. c. 25, s. 7. Abstraction or loss of letters;

Tenth. The Money-Order Offices in operation at any time within the year for which the Report is made, designating in each case the county wherein the Office is situate, the number and amount of Orders issued and paid, and the amount of commission arising thereupon at each Office respectively,-- distinguishing, with respect to the Commission, the proportion allowed as compensation to the Postmaster, and the proportion accruing to the Revenue in each case; Money-Order Offices;

Eleventh. The cost of the Money-Order system for the year to which the report relates, specifying in detail the disbursements for salaries, advertising, account books, printing, stationery and every other item of expenditure; Annual cost of the Money-Order system;

Twelfth. The names of the additional Money-Order Offices opened, and of such Money-Order Offices as have been closed within the said year; Names of the additional Money-Order Offices;

Thirteenth. The losses, if any, sustained in conducting the Money-Order system, and how incurred. 20 V. c. 25, s. 9. Losses sustained by the Money-Order system.

OFFENCES AND PENALTIES.

30 To steal, embezzle, secrete or destroy any Post Letter shall be felony, punishable in the discretion of the Court by imprisonment in the Provincial Penitentiary, for not less than three nor more than fourteen years; unless such Post Letter contains any chattel, money or valuable security, in which case the offence shall be punishable by imprisonment in the said Penitentiary for life; Certain offences to be felonies.

- Stealing from
a letter ; 2. To steal from or out of a Post Letter any chattel, money
or valuable security, shall be felony, punishable by imprison-
ment in the said Penitentiary for life ;
- Stealing a
letter bag, &c ; 3. To steal a Post Letter Bag, or a Post Letter from a Post
Letter Bag, or a Post Letter from any Post Office, or from any
office of the Provincial Post Office, or from a Mail,—or to stop a
Mail with intent to rob or search the same,—shall be felony
punishable by imprisonment in the said Penitentiary for life ;
- Opening any
Post letter
bag, &c ; 4. To open unlawfully any Post Letter Bag,—or unlawfully
to take any letter out of such bag,—shall be felony punishable
by imprisonment in the said Penitentiary for fourteen years ;
- Receiving any
stolen letter,
&c ; 5. To receive any Post Letter, or Post Letter Bag, or any
chattel, money or valuable security, the stealing, taking, secret-
ing or embezzling whereof is hereby made felony, knowing the
same to have been feloniously stolen, taken, secreted or em-
bezzled, shall be felony, punishable by imprisonment in the
said Penitentiary for fourteen years,—and the offender may be
indicted and convicted either as an accessory after the fact or
for a substantive felony, and in the latter case whether the prin-
cipal felon hath or hath not been previously convicted or is or
is not amenable to justice ;—And however such receiver be
convicted, the offence shall be punishable as aforesaid ;
- Forging
stamps, &c ; 6. To forge, counterfeit or imitate any Postage Stamp issued
or used under the authority of this chapter, 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 to use any such forged, coun-
terfeit or imitated stamp,—or to engrave, cut, sink or make any
plate, die or other thing whereby to forge, counterfeit or imitate
such stamp or any part or portion thereof, except by the per-
mission 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 to
have possession of any such plate, die or other thing as
aforesaid, without such permission as aforesaid,—or to forge,
counterfeit or unlawfully imitate, use or affix 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 whom-
soever,—shall be felony, punishable by imprisonment in the
Provincial Penitentiary for life, and to such felony, all the pro-
visions of the *Act respecting Forgery*, shall apply as if such
offence were made felony under that chapter, in so far as the
provisions thereof are not inconsistent with this chapter, and
the accessories to any such offence shall be punishable ac-
cordingly ;

7. To open unlawfully, or wilfully to keep, secrete, delay or detain, or procure or suffer to be unlawfully opened, kept, secreted or detained, any Post Letter Bag, or any Post Letter,—whether the same came into the possession of the offender by finding or otherwise howsoever,—or, after payment or tender of the postage thereon, (if payable to the party having possession of the same) to neglect or refuse to deliver up any Post Letter to the person to whom it is addressed or who is legally entitled to receive the same,—shall be a misdemeanor ;
8. To steal or for any purpose to embezzle, secrete, destroy, wilfully detain or delay, any printed vote or proceeding, newspaper, printed paper or book sent by Post, shall be a misdemeanor ;
9. To obstruct or wilfully delay the passing or progress of any Mail, or of any carriage or vessel, horse, animal or carriage employed in conveying any Mail, on any public highway, river, canal or water communication in this province, shall be a misdemeanor ;
10. To cut, tear, rip or wilfully to damage or destroy any Post Letter Bag, shall be a misdemeanor ;
11. It shall be a misdemeanor for any Mail Carrier or any person employed to convey any Mail, Post Letter Bag, or Post Letters, to be guilty of any act of drunkenness, negligence or misconduct whereby the safety or punctual delivery of such Mail, Post Letter Bag, or Post Letters might be endangered,—or contrary to this chapter or any Regulation made under it, to collect, receive or deliver any letter, or packet,—or to neglect to use due care and diligence to convey any Mail Post Letter Bag or Post Letter, at the rate of speed appointed therefor by the Regulations then in force or the contract under which he acts ;
12. It shall be a misdemeanor for any Toll-gate Keeper to refuse or neglect forthwith upon demand to allow any Mail or any carriage, horse or animal employed in conveying the same to pass through such Toll-gate, whether on pretence of the non-payment of any Toll or any other ; Provided that nothing herein shall affect the right of any officer or person travelling with any Mail to pass Toll free through any Toll-gate,—And in any case where such officer or person would have passed Toll free before the tenth day of August, 1850, an Officer or person travelling with a Mail shall in like manner pass Toll free, but not otherwise or elsewhere, unless it be otherwise provided by competent authority ; but in any case he shall not be detained on pretence of demanding such Toll, but the same if due and not paid shall be recoverable in the usual course of law from the party liable ;

Certain offences to be misdemeanors.

To open unlawfully any letter or letter bag, &c.

To steal any printed vote or proceeding, &c.

To obstruct or delay the passing or progress of any mail, &c.

To cut any letter bag.

Mail carrier guilty of drunkenness, &c.

Toll-gate keeper refusing to allow any mail to pass through.

As to persons entitled to pass Toll free.

13. Any wilful contravention of any Regulation lawfully made under this chapter, shall be a misdemeanor, if declared to be so by such regulation ;
14. To solicit or endeavour to procure any person to commit any act hereby made or declared a felony or misdemeanor, shall be a misdemeanor ;
15. And every such misdemeanor as aforesaid shall be punishable by fine or imprisonment or both in the discretion of the Court before whom the offender is convicted ;
16. Every principal in the second degree and every accessory before or after the fact to any such felony as aforesaid shall be guilty of felony, and punishable as the principal in the first degree ;—And every person who aids, abets, counsels or procures the commission of any such misdemeanor as aforesaid, shall be guilty of a misdemeanor and punishable as a principal offender ;
17. Any imprisonment awarded under this chapter shall be in the Provincial Penitentiary, if for a term of or exceeding two years ;—and if the imprisonment awarded be for a less term, it may be with or without hard labour in the discretion of the Court awarding it. 13, 14 V. c. 17, s. 16.
53. If any Officer of or connected with the Provincial Post Office Department converts to his own use in any way whatever, or uses by way of investment in any kind of property or merchandize, or loans with or without interest, any portion of the public moneys entrusted to him for safe keeping, transfer, disbursement, or for any other purpose,---every such act shall be deemed and adjudged to be an embezzlement of so much of the said moneys as are thus taken, converted, invested, used or loaned, which is hereby declared to be a felony,---And the neglect or refusal to pay over any public moneys in his hands, or to transfer or disburse any such moneys promptly, on the requirement of the Postmaster General, shall be *prima facie* evidence of such conversion to his own use of so much of the public moneys as are in the hands of such officer ;—And all persons advising or knowingly and willingly participating in such embezzlement, upon being convicted thereof before any Court of competent jurisdiction, shall for every such offence forfeit and pay to Her Majesty, Her Heirs or Successors, a fine equal to the amount of the money embezzled, and shall suffer imprisonment for a term not less than three months, and not more than seven years. 14, 15 V. c. 71, s. 23.
54. If any person steals, purloins, embezzles, or obtains by any false pretence, or aids or assists in stealing, purloining, embezzling or obtaining by any false pretence, or knowingly or unlawfully makes, forges or counterfeits, or causes to be unlawfully

Wilful contravention of regulations.

To solicit any person to commit felony, &c.

Misdemeanor, how punishable.

Principal and accessory, how punishable.

Any person who aids or abets, &c.

Imprisonment to be in Provincial Penitentiary for two years, &c.

Embezzlement by an officer of the Department, to be felony.

Penalty for persons advising, &c.

Punishment of persons stealing, counterfeiting, &c., keys or locks used for mails.

unlawfully made, forged or counterfeited, or knowingly aids or assists in falsely and unlawfully making, forging or counterfeiting any key suited to any lock adopted for use by the Provincial Post Office Department, and in use on any of the Mails or Mail-bags of the said department, or has in his possession any such Mail-key or any such Mail-lock, with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold or otherwise disposed of,—such person shall, on conviction, be deemed guilty of felony, and shall be punished by imprisonment in the Provincial Penitentiary for a period not exceeding seven years. 16 V. c. 8, s. 6.

PROCEDURE, CRIMINAL AND CIVIL.

55. Any indictable offence against this chapter may be dealt with, indicted and tried and punished, and laid and charged to have been committed either in the district or county or place where the offence is committed, or in that in which the offender is apprehended or is in custody, as if actually committed therein :

As to the locality of any offence.

2. And where the offence is committed in or upon, or in respect of a Mail, or upon a person engaged in the conveyance or delivery of a Post letter bag, or Post letter, or chattel or money or valuable security sent by Post, such offence may be dealt with and inquired of, tried and punished and charged to have been committed as well within the district, county or place in which the offender is apprehended or is in custody, as in any district, county or place through any part whereof such Mail, person, post letter bag, post letter, chattel, money or valuable security, passed in the course of conveyance and delivery by the Post, in the same manner as if it had been actually committed in such district, county or place ;

Offences committed during the transit of the mail.

3. And in all cases where the side or centre or other part of a highway, or the side bank, centre or other part of a river or canal, or navigable water, constitutes the boundary between two districts, counties or places, then to pass along the same, shall be held to be passing through both ;

On roads &c., forming boundaries.

4. And every accessory before or after the fact, if the offence be felony,—and every person aiding or abetting or counselling or procuring the commission of any offence if the same be a misdemeanour,—may be dealt with, indicted, tried and punished as if he were a principal, and his offence may be laid and charged to have been committed in any district, county or place, where the principal offence might be tried. 13, 14 V. c. 17, s. 17.

Accessory, and every person aiding and abetting, &c., may be dealt with as a principal.

56. In every case where an offence is committed in respect of a Post letter bag, or a Post letter, packet, chattel, money or

Property of Post letters, or

&c, stolen,
how to be
laid.

or a valuable security, sent by Post, in the indictment to be preferred against the offender, the property of such Post letter, bag, Post letter, packet, chattel, money or valuable security, sent by Post, may be laid in the Provincial Postmaster General;—And it shall not be necessary to allege in the indictment or to prove upon the trial or otherwise, that the Post Letter Bag, Post letter, packet, chattel or valuable security was of any value :

Property
how laid.

2. But except in the cases aforesaid, the property of any chattel or thing used or employed in the service of the Provincial Post Office or of moneys arising from duties of postage, shall be laid in Her Majesty, if the same be the property of Her Majesty, or if the loss thereof would be borne by the Province and not by any party in his private capacity ;

Allegation
that offender
was employed
in the depart-
ment.

3. And in any indictment against any person employed in the Provincial Post Office for any offence against this chapter, or in any indictment against any person for an offence committed in respect of some person so employed, it shall be sufficient to allege that such offender or such other person as aforesaid, was employed in the Provincial Post Office, at the time of the commission of such offence, without stating further the nature or particulars of his employment. 13, 14 V. c. 17, s. 18.

Actions, &c.,
may be com-
pounded.

57. The Postmaster General, (subject always to the orders of the Governor,) may compromise and compound any action, suit or information at any time commenced by his authority or under his control, against any person for recovering any penalty incurred under this chapter, on such terms and conditions as he in his discretion thinks proper, with full power to him or any of the officers and persons acting under his orders to accept the penalty so incurred or alleged to be incurred, or any part thereof, without action, suit or information brought or commenced for the recovery thereof. 13, 14 V. c. 17, s. 20.

And take the
penalty with-
out suit.

Penalties,
how recover-
able.

58. All mere pecuniary penalties imposed by this chapter or by any regulation of the Governor in Council to be made under it, shall be recoverable with costs by the Provincial Postmaster General, by civil action in any Court having jurisdiction to the amount, and shall belong to the Crown, saving always the power of the Governor in Council to allow any part or the whole of such penalty to the Officer or party whose information or intervention the same has been recovered, as in the case of penalties recovered under other laws relating to the collection of the Revenue ;—But all such penalties shall be sued for within one year after they are incurred, and not afterwards :

Provide.

Provided that if the penalty do not exceed ten pounds, it may be recovered before any one Justice of the Peace in

in a summary manner, and if not paid, may be levied by distress under warrant of such Justice ;—And if the penalty exceeds ten pounds, the offender may be indicted for a misdemeanor in contravening the provisions of this chapter or of the regulations made under it, (instead of being sued for such penalty) and if convicted, shall be punishable by fine or imprisonment, or both, in the discretion of the Court. 13, 14 V. c. 17, s. 21.

59. In any action or proceeding for the recovery of postage, or of any penalty under this chapter, the same may be recovered on the evidence of any one credible witness, and any Postmaster or other officer or servant of the Provincial Post Office, shall be a competent witness, although he is entitled or entertains reasonable expectation of receiving some portion of the whole of the sum to be recovered; and the *onus* of shewing that any thing proved to have been done by the defendant was done in conformity to or without contravention of this chapter, shall lie upon the defendant. 13, 14 V. c. 17, s. 22.

Who may be a witness.

60. In any action, suit or proceeding against any Postmaster or other officer of the Provincial Post Office, or his sureties, for the recovery of any sum of money alleged to be due to the Crown as the balance remaining unpaid of moneys received by such Postmaster or officer a statement of the account of such Postmaster or officer shewing such balance, and attested as correct by the certificate and signature of the Accountant of the Provincial Post Office or of the officer then doing the duties of such Accountant, shall be evidence that such amount is so due and unpaid as aforesaid ;—And in every such suit it shall be lawful to demand and the judgment shall be rendered for double the amount proved by such account to be so due to the Crown by the defendant, but nothing herein contained shall be construed to prevent the provisions of the *Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants*, from applying to such Postmaster or officer. 13, 14 V. c. 17, s. 23.

What shall be evidence in any action against Postmasters, &c., for moneys officially received by them.

Double the amount may be recovered.

Cap. 16 to apply.

61. All suits, proceedings, contracts and official acts to be brought, had, entered into or done by the Postmaster General, shall be so in and by his name of office, and may be continued, enforced and completed by his successor in office as fully and effectually as by himself ;—nor shall the appointment or authority of any Provincial Postmaster General or of any Postmaster, officer or servant of the Provincial Post Office, be liable to be traversed or called in question, in any case, except only by those who act for the Crown : 13, 14 V. c. 17, s. 13—

All acts of the P. M. G. to be done in his name of office.

Appointment and authority not to be called in question.

140

And

All suits to be instituted in the name of the P. M. G.

And all suits to be commenced for the recovery of debts or balances due to the Post Office, whether they appear by bond or obligation made in the name of the existing or any preceding Postmaster General, or otherwise, shall be instituted in the name of "The Postmaster General." 14, 15 V. c. 71, s. 50, as amended by 20 V. c. 25, s. 3.

PROTECTION OF OFFICERS.

Certain provisions of Chap. 17, extended to officers of Provincial Post Office.

62. All enactments of the *Act respecting Duties of Customs and the Collection thereof*, and more especially of sections ninety, ninety-one, ninety-two and ninety-three of the said Act, for protecting officers and others employed in collecting duties or in preventing the evasion of the laws imposing duties, when in the performance of the duties of their office, or in respect of suits or proceedings against them for things done or alleged to be done in pursuance of any law, shall extend and apply in like manner to officers and persons employed in or under the Provincial Post Office, and to suits or proceedings against them for things done or alleged to be done under this chapter. 13, 14 V. c. 17, s. 19—part.

C A P . X X X I I .

An Act respecting the Bureau of Agriculture and Agricultural Societies.

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

1. The Bureau of Agriculture and all Agricultural Societies, Associations and Boards of Agriculture incorporated or otherwise created, continued or recognized by, or lawfully organized or established under the repealed Act passed in the sixteenth year of Her Majesty's Reign, chapter eleven, shall continue as if the said Act were still in force, except in so far as the said Bureau, or such Societies, Associations or Boards are altered or affected by this Chapter. 20 V. c. 32, s. 1.

Bureau and Societies under 16 V. c. 11, continued.

BUREAU OF AGRICULTURE.

2. The Bureau of Agriculture shall continue to be attached to one of the Public Departments, and the Head of that Department shall be charged with the direction of the said Bureau, and shall in respect thereof be known as the Minister of Agriculture. 20 V. c. 32, s. 2.

Minister of Agriculture, and Bureau thereof.

3. The said Minister shall be *ex officio* Member of all Boards of Agriculture at any time established in this Province. 20 V. c. 32, s. 3--part.

Minister to member of all Boards of Agriculture.

4. The said Minister shall also receive all applications, drawings, descriptions, specifications and models for or relating to Patents for Inventions in this Province, and shall keep the records thereof. 20 V. c. 32, s. 4.

To receive applications for Patents for Inventions, &c.

5. The said Minister shall also be a Member of the Board of Registration and Statistics and the Chairman thereof, and shall, under the general direction of the said Board, have charge of the Census and other Statistical Returns. 20 V. c. 32, s. 5.

To be a member of Board of Registration, &c.

6. It shall be part of the duty of the said Minister to institute inquiries and collect useful facts and statistics relating to the Agricultural, Mechanical and Manufacturing interests of the Province, and to adopt measures for disseminating or publishing the same in such manner and form as he finds best adapted to promote improvement within the Province, and to encourage immigration from other Countries; and he shall submit to Parliament within ten days after the opening of each Session thereof a detailed and succinct Report of his proceedings. 20 V. c. 32, s. 6.

To collect facts relating to Agriculture, &c., and disseminate the same.

Annual Report.

Boards of
Agriculture,
&c., to answer
his communi-
cations.

7. All Boards of Agriculture, Agricultural Associations, Agricultural Societies, Municipal Councils, Boards of Arts and Manufactures, Mechanics' Institutes, Public Institutions, and Public Officers in this Province, shall promptly answer official communications from the said Bureau of Agriculture, and shall make diligent efforts to supply correct information on all questions submitted to them respectively;—And any officer of any such Board, Association, Society, Council, Institute, or other Public Institution, refusing or wilfully neglecting to answer any question, or to furnish any information relating to the Agricultural, Mechanical or Manufacturing interests, or the Statistics of this Province, whenever required so to do, either by the said Minister, or by any person duly authorized by him in that behalf, shall for every such offence incur a penalty of ten pounds, which shall be recoverable by any person suing for the same before any Court of competent jurisdiction, and shall be paid to Her Majesty. 20 V. c. 32, 7.

Penalty for
refusal.

He may ap-
point persons
to inspect ac-
counts of
Agricultural
Societies,
&c.

8. The Minister of Agriculture may at any time, and from time to time, appoint any person or persons to inspect the books and accounts of any Society in the Province receiving Govern-ment aid, and being in any way in connexion with the Bureau of Agriculture;—And all officers of every such Society, whenever required so to do, shall submit such books and ac- counts to such inspection, and truly to the best of their know- ledge answer all questions put to them in relation thereto, or to the funds of such Society. 20 V. c. 32, s. 8.

AGRICULTURAL INSTRUCTION.

Appropriation
towards the
promotion of
Agricultural
Instruction.

9. Out of the sums appropriated for Agricultural Societies in Upper and Lower Canada respectively, from Provincial Funds, two and one half per cent, thereof shall be applied under the authority of the Governor in Council, towards the promotion of agricultural instruction and information. 22 V. c. 83, s. 4.

BOARDS OF AGRICULTURE.

Members and Officers.

Who shall be
members of
Boards of
Agriculture.

10. The Presidents, for the time being, of the Agricultural Associations hereinafter mentioned, and all Professors of Agriculture in Chartered Colleges, Universities and other Public Educational Institutions, and the Chief Superintendents of Education in Upper and in Lower Canada, shall respectively be Members *ex officio* of the Board of Agriculture for that section of the Province in which they reside. 20 V. c. 32, s. 9.

Retirement of
members.

11. Four Members of each Board shall annually retire and cease to be Members thereof, unless re-elected, each seat being vacated every alternate year; but retiring Members may con- tinue to exercise all their functions until their successors have

have been duly elected as hereinafter provided; and the names of the retiring Members shall forthwith be published in the Agricultural Journals of the section of the Province in which they reside. 20 V. c. 32, s. 10.

- 5 **12.** The County Agricultural Societies in Upper and Lower Canada respectively, shall, at their annual Meetings in January, nominate four proper persons to be Members of the said Boards of Agriculture respectively, and shall forthwith transmit the names of the persons so nominated to the Bureau of Agriculture;---
- 10 And the four persons so nominated by the greatest number of Societies shall be Members of the said Boards respectively, in the place of the Members vacating their seats as aforesaid : 20 V. c. 32, s. 11--*part.*

Counties Societies to appoint members of said Boards.

2. In case of an equality of votes for one or more of the persons so nominated, the Minister of Agriculture shall decide which shall be the Member, and he shall cause the persons so nominated, and the Boards to which they are nominated respectively, to be immediately notified of the result ; 20 V. c. 32, s. 12.

Case of equality of votes provided for.

- 30 **3.** Vacancies in either Board happening at any time through death, resignation or otherwise, may be filled up by the Governor in Council. 20 V. c. 32, s. 11.

Casual vacancies.

- 13.** Neither of the said Boards shall pay or allow any sum to a Member thereof, for acting as such Member, except the amount of his actual necessary expenses in attending the regular meetings of the Board ;---but each of the said Boards may appoint a Secretary from among its Members or otherwise, and may pay him a reasonable salary for his services. 20 V. c. 32, s. 13.

Members to act gratuitously.

Secretaries may be paid.

Meetings and Functions of the Boards.

- 30 **14.** The regular Meetings of the said Boards shall be held pursuant to adjournment, or be called by the Secretary at the instance of the President or Vice-President, or upon the written request of any three Members ;---And at least five days' notice of such Meeting shall be given to each Member : 20 V. c. 32, s. 14--*part.*

Regular meetings of the boards.

2. The Members of each of the Boards of Agriculture may elect from among themselves a President and Vice-President at their first meeting and every annual meeting thereafter ; 20 V. c. 32, s. 3--*part.*

Boards to elect presidents, &c.

- 40 **3.** And in the absence of the President and Vice-President, the Board may appoint a Chairman *pro tempore* ;

Chairman *pro tem.*

4. Five Members of the Board shall be a *quorum*. 20 V. c. 32, s. 14.

Quorum.

Duties of boards of agriculture.

15. It shall be the duty of the said Boards respectively :

1. To receive the Reports of Agricultural Societies, and before granting the certificates hereinafter mentioned, to see that they have complied with the law ;

Experimental farm.

2. To take measures, with the approbation of the Minister of Agriculture, to procure and set in operation a model, illustrative or experimental farm or farms in their respective sections of the province, and in connexion with any public school, college or university, or otherwise, and to manage and conduct the same ;

10

Museum and library, &c.

3. To collect and establish, at Toronto and Montreal respectively, an Agricultural Museum and an Agricultural and Horticultural Library ;

Importation of improved breeds of animals.

4. To take measures to obtain from other countries animals of new or improved breeds, new varieties of grain, seeds, vegetables or other agricultural productions, new or improved implements of husbandry or new machines which may appear adapted to facilitate agricultural operations, and to test the quality, value and usefulness of such animals, grain, seeds, vegetables or other productions, implements or machines ;

20

Improvement in the agriculture.

5. And generally to adopt every means in their power to promote improvement in the agriculture of this Province. 20 V. c. 32, s. 15—*part.*

Records of their transactions, publishing reports, essay, &c.

16. The said Boards shall keep a Record of their respective transactions, and shall from time to time publish, in such manner and form as to secure the widest circulation among the Agricultural Societies and farmers generally, all such Reports, Essays, Lectures and other useful information as the said Boards respectively may procure and adjudge suitable for publication :

30

Journals of agriculture.

And if the said Boards, or either of them, publish a monthly Journal, or adopt as their channel of communication with Agricultural Societies the Agricultural Journals now published in Upper and Lower Canada respectively, then all Agricultural Societies receiving any share of the Public Grant shall give at least one month's notice of the time and place of holding their Exhibitions in the Journals so published or adopted by the said Boards respectively. 20 V. c. 32, s. 15—*remainder.*

Copy of By-laws, &c., to be sent to the bureaux.

17. The said Boards shall transmit to the Bureau of Agriculture a copy of their resolutions, By-laws or other formal proceedings, immediately after the adoption thereof :

40

And no resolution, By-law, or other proceeding of the said Boards respectively involving an expenditure of money to an amount

amount exceeding ten pounds, shall be passed except with the assent of a majority of the members thereof. 20 V. c. 32, s. 16.

18. Each of the said Boards shall continue to be a Body Corporate, and may acquire and hold land and personal property for the purposes of its incorporation, and may sell, lease or otherwise dispose of the same. 20 V. c. 32, s. 17. Each board to be a corporation—powers as such.

BOARDS OF ARTS AND MANUFACTURES.

Members and Officers.

19. There shall be, in and for Upper Canada, a Corporation composed as hereinafter provided, and called "The Board of Arts and Manufactures for Upper Canada." 20 V. c. 32, s. 18. Board constituted for U. C.

20. There shall be, in and for Lower Canada, a Corporation to be composed as hereinafter provided, and called "The Board of Arts and Manufactures for Lower Canada." 20 V. c. 32, s. 19. Board for Lower Canada.

21. Each of the said Corporations may acquire and hold real or immoveable property, for the purposes of the Corporation, and may sell, exchange, lease or otherwise dispose of or depart with the same, from time to time. 20 V. c. 32, s. 21. Corporate powers.

22. The said Corporations shall respectively be composed of—the Minister of Agriculture for the time being, (who shall be *ex officio* a member of each),—the Professors of all the Chartered Universities and Colleges in Upper and Lower Canada respectively,—the Chief Superintendents of Education in Upper and in Lower Canada respectively, for the time being, *ex officio*,—the Presidents for the time being of and one Delegate from each of the Boards of Trade,—and the Presidents of and Delegates from each of the incorporated Mechanics' Institutes, or of any incorporated Arts Associations qualified as hereinafter mentioned, in Upper and Lower Canada respectively,—such Delegates to be chosen annually as hereinafter provided. 20 V. c. 32, s. 20. Of whom they shall respectively consist.

23. The Board of Trade in each City and Town in Upper Canada, shall, at its first meeting in the month of January, in each and every year, elect and accredit to the Board of Arts and Manufactures for Upper Canada, one of its body as a member thereof. 20 V. c. 32, s. 22. Board of trade in U. C. to send members.

24. The Board of Trade in each City and Town in Lower Canada, shall, at its first meeting in the month of January, in every year, elect and accredit to the Board of Arts and Manufactures And so in Lower Canada.

Manufactures for Lower Canada, one of its body as a member thereof. 20 V. c. 32, s. 23.

Mechanics Institutes to send members

25. Each incorporated Mechanics' Institute in Upper and Lower Canada respectively, shall, at its first meeting, in the month of January, in every year, elect and accredit to the Board of Arts and Manufactures in Upper or Lower Canada respectively, (according as its place of meeting is in Upper or Lower Canada,) one delegate for every twenty members on its roll, being actual working mechanics or manufacturers, and having paid a subscription of at least five shillings each, to its funds for the year then last past :

Proviso.

But no such Mechanics' Institute shall elect and accredit any such delegate to the Board of Arts and Manufactures, unless it has paid and contributed to the funds of the Board, at least one tenth of the amount of Government aid granted to such Institute during the year then last past. 20 V. c. 32, s. 24.

Auditor to send a certain statement yearly to each board.

26. The Auditor shall transmit to the Boards of Arts and Manufactures for Upper and Lower Canada respectively, in the month of March, in every year, statements of the number of Members on the Books, and the revenue, exclusive of Provincial aid, of each Mechanics' Institute, in Upper or Lower Canada respectively. 20 V. c. 32, s. 25.

Names of delegates to be transmitted to secretary of proper board.

27. The names of the Delegates so elected shall be forthwith transmitted by the Secretary of the Board or Institute electing them, to the Secretary of the Board to which they are elected, who shall thereupon inscribe their names upon the Roll of the Members of the said Board, for the year then about to commence :

Certain other statements to accompany it.

2. With the names of the Delegates, when transmitted by the Secretary of a Mechanics' Institute, there shall be transmitted a statement verified by the oath of the Secretary transmitting the same, to be taken before a Justice of the Peace, of the names of all the members on the roll of such Mechanics' Institute, being actual working mechanics or manufacturers, and having paid subscriptions of at least five shillings each to its funds for the year then last past ;

Proceedings if any Mechanics' Institute elects too many delegates.

3. If it appears, either by the said statement or by that transmitted by the Auditor, that any such Mechanics' Institute has elected too many Delegates, then the Secretary of the Board shall abstain from recording any of the names of the Delegates of such Mechanics' Institute, and shall submit the matter to the Board at its first meeting; And the said Board may, if they see fit, adjudge that such Mechanics' Institute shall not be entitled to any Delegates for the year then next, or may decide by vote or ballot whether one Delegate or Delegates thereof shall be rejected; and in this latter

latter case the names of the remaining Delegate or Delegates shall be forthwith inscribed by the Secretary of the said Board on the Roll of the Members thereof, for the year then about to commence. 20 V. c. 32, s. 26.

Meetings and Functions of the Boards.

5 28. The said Boards of Arts and Manufactures shall meet at the Cities of Toronto and Montreal respectively, four times in every year, that is to say, on the first Tuesday in each of the months of January, April, July and October, if such Tuesday be not a holiday, but if it be a holiday, the meeting shall take place the next day thereafter, not being a holiday : Regular meet-ings of the said Boards.

2. And the President of either of the said Boards, and in his absence from the Province, or in the case of a vacancy in the Office of President, then the Vice-President, whenever he deems it necessary or is required by any ten members thereof so to do, shall call a special meeting of the same, in the interval between any two quarterly meetings ; Special meet-ings.

3. But no such special meeting shall take place until seven clear days after a written or printed notice signed by the Secretary of the Board, and specifying the day, hour and place of meeting, and the object or objects for which the same is called, has been mailed to the address of each member of the Board. 20 V. c. 32, s. 29. Proviso : as to special meet-ings.

29. Each of the said Boards shall, at its quarterly meet-ings in January, in each year, elect from among its members a President, Vice-President and a Secretary and Treasurer, to hold office for the ensuing year, or until the election of their successors,—and shall appoint a Sub-committee of not less than five ~~not more~~ more than nine of their number for the management during the year of such affairs of the Board as may by any By-law be entrusted to them : Each Board to elect a Presi- dent, Vice- President, &c., and a sub-commi- tee.

The President and Vice-President shall be *ex officio* members of such Sub-committee, and a majority of the members of such Sub-committee shall be a quorum for the transaction of busi- Quorum.

35 In case of a vacancy occurring in any of the said offices in the course of the year, either by death or resignation, such vacancy may be filled up by election as aforesaid, at any quarterly meeting, or at a meeting specially called for that purpose. 20 V. c. 32, s. 30; *except the last proviso, which ap- 40 pleases to 1857.* Vacancies.

30. It shall be the duty of the said Boards of Arts and Manufactures ;— Duties of the Boards of Arts and Manufac- tures.

To

Establishing museums of materials, models, &c.

1. To take measures, with the approbation of the Minister of Agriculture, to collect and establish at Toronto and Montreal respectively, for the instruction of practical mechanics and artizans, museums of minerals and other material substances and chemical compositions, susceptible of being used in Mechanical Arts and Manufactures, with model rooms appropriately stocked and supplied with models of works of art and of implements and machines other than implements of husbandry and machines adapted to facilitate agricultural operations, and free libraries of reference, containing books, plans and drawings, selected with a view to the imparting of useful information in connexion with Mechanical Arts and Manufactures ;

New implements and machinery.

2. To take measures to obtain from other countries new or improved implements and machines, (not being implements of husbandry or machines specially adapted to facilitate agricultural operations,)---to test the quality, value and usefulness of such implements and machines ;

General duty.

3. And generally to adopt every means in their power to promote improvement in the Mechanical Arts and in Manufactures in this Province.

Model rooms and Libraries.

31. The said Boards respectively, with the consent and approbation of the Minister of Agriculture, may establish in connexion with their respective Museums, Model Rooms or Libraries, Schools of Design for Women, on the most approved plan, and furnished and supplied in the most complete and appropriate manner, that the funds at their disposal will admit of, regard being had to the claims thereon of the other objects for which they are hereby established :

Minister of Agriculture may cause duplicates of specifications, &c., to be placed in such Museum.

2. And the Minister of Agriculture may cause duplicates or copies of models, plans, specimens, drawings and specifications deposited in the Patent Office, and upon which Patents of Invention have issued, to be made, from time to time, and placed in the Model Rooms, Museums or Libraries of the said Boards of Arts and Manufactures respectively ;

Also to found schools for mechanics ; to keep records of their transactions.

3. The said Boards may also found Schools or Colleges for Mechanics, and employ competent persons to deliver lectures on subjects connected with the Mechanical Arts and Sciences or with Manufactures. 20 V. c. 32, s. 27--part.

Boards to keep records of their transactions.

32. The said Boards shall keep Records of their respective transactions, and shall from time to time publish, in such manner and form as to secure the widest circulation among the Mechanics' Institutes and among Mechanics, Artizans and Manufacturers generally, all such Reports, Essays, Lectures and other literary compositions conveying useful information as the said Boards are respectively able to procure, and judge to be suitable for publication. 20 V. c. 32, s. 27--remainder.

33. The said Boards respectively may make and ordain such By-laws, Rules, Orders and Regulations, not being contrary to this chapter, or to the laws of this Province, as they deem necessary, touching the disposition and management of their funds, property and affairs, and the execution of the duties and powers intrusted to them by this chapter, and from time to time may repeal or alter the same and make others in their stead. Copies of all By-laws, Rules, Orders and Regulations, and of the minutes of all the proceedings of the said Boards, shall be transmitted forthwith after they are respectively made to the Bureau of Agriculture. 20 V. c. 32, s. 28.

Boards to make By-laws and for what purposes.

Copies to be sent to the Bureau.

AGRICULTURAL ASSOCIATIONS.

34. The Members of the Boards of Agriculture and of the Boards of Arts and Manufactures,--the Presidents and Vice-Presidents of all lawfully organized County Agricultural Societies, and of all Horticultural Societies,--and all subscribers of five shillings annually, to the funds of any such Society,--shall in their respective sections of the Province, constitute an Agricultural Association for that section. 20 V. c. 32, s. 31.

Who shall be members in each section of the province.

35. The Members of the Board of Agriculture and of the Board of Arts and Manufactures, and the Presidents and Vice-Presidents of County Societies, and of all Horticultural Societies, (or any two members whom a County or Horticultural Society has appointed Directors instead of its President and Vice-President,) shall be the Directors of such Agricultural Association; and the Agricultural Association may elect a Treasurer. 20 V. c. 32, s. 32.

Who shall be directors.

Treasurer.

36. Each of the said Associations shall hold an Annual Fair or Exhibition, open to competitors from any part of the Province;--and the said Directors shall hold an annual meeting during the week of the annual Exhibition, and may at such meeting elect a President and Vice-Presidents, and appoint the place for holding the next meeting and Exhibition of the Association,--and may appoint a local Committee for the management of such Exhibition,--and may appoint to be held, and prescribe the powers and duties of the said Committee. 20 V. c. 32, s. 33.

Annual exhibition and meetings of Directors.

Election of president, &c.

Local committee.

37. The Board of Agriculture, with whom shall for this purpose be associated the President and Vice-President of the Board of Arts and Manufactures, or any two persons from time to time named by the said Board in place of such President and Vice-President, shall be the Council of the Association, with full power to act for and on behalf of the Association between the annual meetings thereof;--And all grants of money, subscriptions, or other funds made or appropriated to or for the use of

Council of the Association; its powers.

Secretaries. of the Association, (except money collected by or granted to any local Committee for the local expenses of an Exhibition) shall be received by and expended under the direction of the said Board of Agriculture as such Council,—and the Secretary of the said Board, together with the Secretary of the Board of Arts and Manufactures, shall be *ex officio* joint Secretaries of the Association. 20 V. c. 32, s. 34.

Contracts with the Association. **38.** All contracts and all legal proceedings by, with, or concerning the Association, shall be made and had with the Board of Agriculture, so constituted as such Council, in its Corporate capacity, and no other contracts, agreements, actions or proceedings shall bind or affect the Association. 20 V. c. 32, s. 35.

HORTICULTURAL SOCIETIES.

How and where to be formed. **39.** Any number of persons not less than twenty-five, may organize and form themselves into a Horticultural Society for any City, Town, Village, Township or Parish, or Union of two or more thereof together, either in Upper or Lower Canada, by signing a declaration in the form of Schedule A to this Act annexed, (but with the necessary alteration as to the name of the Society,) and subscribing a sum of not less than ten pounds annually to the funds thereof. 20 V. c. 32, s. 48.

Declaration of members. **40.** Such declaration shall be in duplicate, and one part thereof shall be written and signed on the first page or pages of a book to be kept by the Society for recording the minutes of its proceedings during the first year of its existence, and the other part thereof shall be written and signed on a sheet of paper or parchment, and shall forthwith be sent by Post to the Minister of Agriculture, who shall as soon as may be after the receipt thereof, cause a notice of the formation of such Society to be inserted in the *Canada Gazette*. 20 V. c. 32, s. 49.

Society to be a Corporation. **41.** Upon the insertion in the *Canada Gazette* of the notice of the formation of any such Society, it shall become a Corporation for the objects and purposes hereinafter mentioned, by the name applied to it in such notice, which shall be the same as that in the declaration transmitted by such Society, and may acquire and hold, lease, mortgage and alienate property, real and personal, for the purposes of such Society. 20 V. c. 32, s. 50.

Power to make By-laws. **42.** Every Horticultural Society incorporated under this chapter may make By-laws, not being contrary to the laws of this Province or to this chapter, for prescribing the mode of admission of new Members and election of Officers, and otherwise regulating the administration of its affairs and property. 20 V. c. 32, s. 51.

43. Every such Society shall hold a meeting in the first week of the month of February, in each year, besides meetings at such other times as may be prescribed or provided for by its By-laws; and at such annual meeting a President, a Vice-President, a Secretary and Treasurer, and not fewer than three nor more than nine Directors, shall be elected. 20 V. c. 32, s. 52.

Meetings of the Society.

Election of Officers.

44. The said Officers and Directors shall prepare and present to the annual meeting of the Society a report of their proceedings during the year, in the same manner as herein directed for County Agricultural Societies, and containing information under the same heads, save and except those which relate to Agriculture,—the object and purposes of Horticultural Societies being the same as those of Agricultural Societies, as herein-mentioned, but with reference to Horticulture only. 20 V. c. 32, s. 53.

Annual report.

AGRICULTURAL SOCIETIES IN UPPER CANADA.

County or Electoral Division Societies.

45. An Agricultural Society may be organized in each of the Electoral Divisions of Upper Canada for the purposes of representation in the Legislative Assembly, in which there was not one embracing the limits of such Electoral Division already organized on the tenth day of June, 1857, whenever fifty per cent have become Members thereof by signing a Declaration in the form of the Schedule A to this chapter annexed, and paying each not less than five shillings annually to the Funds of the said Society; and a true copy of the said Declaration shall, within one month after the money has been so paid, be transmitted to the Board of Agriculture. 20 V. c. 32, s. 37.

Society may be organized in each Electoral Division, &c.

46. The object of the said Societies, and of the Township or Branch Societies in connexion therewith, shall be, to encourage improvement in Agriculture or Horticulture, or both;—

Object of such Societies.

1. By holding Meetings for discussion, and for hearing Lectures on subjects connected with the theory and practice of improved Husbandry;

Discussion, &c.

2. By promoting the circulation of the Agricultural Periodicals published in the Province;

Agricultural periodicals.

3. By importing or otherwise procuring Seeds, Plants and animals of new and valuable kinds;

Seeds.

4. By offering prizes for Essays on Questions of Scientific Enquiry relating to Agriculture or Horticulture, Manufactures and Works of Art;

Prizes for Essays.

- Premiums.** 5. And by awarding Premiums for excellence in the raising or introduction of Stock, the invention or improvement of Agricultural or Horticultural Implements and Machines, the production of grain and of all kinds of vegetables, plants, flowers and fruits, and generally for excellence in any Agricultural or Horticultural Production or Operation, Article of Manufacture or Work of Art ;
- Application of funds.** 6. The Funds of the Societies, derived from subscriptions of Members, or the Public Grant, shall not be expended for any object inconsistent with those above mentioned ;
- By-laws.** 7. And the Directors of every such *County Society*, at any meeting, called by written notice as hereinafter mentioned, and in which notice the object of the meeting has been specified, may make, alter and repeal By-laws and Rules for the regulation of such Society and the carrying out of its objects. 20 V. c. 32, s. 38.
- First meetings for forming electoral division societies.** 47. The first Meeting for the formation of an Electoral Division Society under this Chapter, shall be called by the Warden of the County or Union of Counties in the third week of January in each year, at which Meeting the Election of the various Officers shall take place, and the Society so organized shall be deemed the Electoral Division or *County Society*, and shall be entitled to receive the Provincial Grant hereinafter provided ; and all subsequent Annual Meetings after the first Meeting shall be called and held as provided in the next following section of this Chapter. 20 V. c. 32, s. 65.
- Annual meetings.** 48. The said Societies shall hold their annual Meetings in the third week in the month of January, in each year, and shall at such Meeting, elect a President, two Vice-Presidents, a Secretary and Treasurer, and not more than seven Directors. 20 V. c. 32, s. 39.
- Ex officio directors.** 49. The Presidents of the several Township Agricultural Societies, and also the Presidents of Mechanics' Institutes receiving Government aid, and of Boards of Trade, (or any other person appointed by such Society, Institute or Board, in the place of such President,) within the *County*, shall, in addition to those before named, be *ex officio* Directors of the *County Society*, provided such Township Society or Mechanics' Institute has contributed two pounds ten shillings annually to the funds of the *County Society* ; And the said Officers and Directors shall for the year next following the annual Meeting, and until the election of their successors, exercise all the powers vested in the *County Society* by this chapter. 20 V. c. 32, s. 40.
- Proviso.**
- Adjournment and calling of meetings.** 50. The Meetings of the Officers and Directors shall be adjourned, or called by written notice to and given

given by authority of the President, or in his absence the Senior Vice-President, at least one week before the day appointed; And at any Meeting five shall be a quorum. 20 V. c. 3, s. 41.

51. The said Officers and Directors shall, in addition to the ordinary duties of management, cause to be prepared, and shall present at the Annual Meeting, a Report of their proceedings during the year, in which shall be stated the names of all the Members of the Society, the amount paid by each set opposite his name, the names of all persons to whom premiums were awarded, the amount of such Premiums respectively, and the name of the Animal, Article or thing in respect of which the same was granted, together with such remarks and suggestions upon the Agriculture and Horticulture of the County, and Arts and Manufactures therein, as the Directors are enabled to offer :

Annual report of proceedings.
And what it shall contain.

2. There shall also be presented to the said Annual Meeting, a detailed statement of the receipts and disbursements of the Society during the year ;

Annual accounts.

3. The said Report and Statement, if approved by the meeting, shall be entered in the Society's Journal, to be kept for such purposes, and signed by the President or a Vice-President as being a correct entry ; and a true copy thereof certified by the President or Secretary for the time being, shall be sent to the Board of Agriculture, on or before the first day of April next following.

Entry of Report.
Copy to board of agriculture.

20 V. c. 32, s. 42.

52. The County Society shall receive the Reports of the Township or Branch Societies, and shall transmit them to the Board of Agriculture, with such remarks thereon as will enable the said Board to obtain a correct knowledge of the progress of Agricultural Improvement in the County. 20 V. c. 32, s. 43.

County societies to receive report from townships, &c.

53. The said Officers and Directors shall answer such queries and give such information as the Board of Agriculture, or Minister of Agriculture, may from time to time, by Circular Letter, or otherwise, require, touching the interests or condition of Agriculture in their County, and generally shall act as far as practicable upon the recommendations of the said Board. 20 V. c. 32, s. 44.

Officers to give information to board or minister of agriculture.

Township Societies.

54. A Township or Branch Agricultural Society may be organized in each Township in Upper Canada in which there was not one already organized on the tenth day of June, 1857, or in any two or more such Townships together, whenever a sufficient number of persons, not less than twenty-five, become Members, by signing a declaration in the form of the Schedule A to this chapter annexed, and subscribing a sum not less than

Where township societies may be organized, and how.

ten pounds annually to the funds thereof; And a true copy of the said Declaration certified by the President or Vice-President of such Society, shall be forthwith transmitted to the County Society. 20 V. c. 32, s. 45.

Annual meet- ings. **55.** The said Societies shall hold their Annual Meeting in the second week of the month of January in each year, and shall elect a President, Vice-President, Secretary and Treasurer, and not fewer than three nor more than nine Directors. 20 V. c. 32, s. 46.

Annual re- port. **56.** The said Officers and Directors shall prepare and present to the Annual Meeting of the Society, a Report of their proceedings during the year, in the same manner as hereinbefore directed for County Societies, and containing information under the same heads,—and shall transmit a true copy thereof, certified by the President or Vice-President, to the Secretary of the County Society, in time for the Annual Meeting thereof in the month of January. 20 V. c. 32, s. 47.

Copy to Coun- ty Society.

General Provisions relative to Agricultural Societies in Upper Canada.

Exhibitions of County Societies where to be held, &c. **57.** The Exhibition of the County Society shall be held wherever the majority of the Directors or of a quorum thereof think fit, giving due and public notice thereof: 20

Two or more may unite for the purpose. 2. And two or more County and Township Societies may, by agreement between the Directors thereof, or a majority of Directors of each such Society, unite their Funds, or any portion thereof, for the erection of suitable buildings in which to exhibit Articles of Produce or Manufacture, or Works of Art, or for Annual or Extra Shows, or for Ploughing Matches, or for any other purpose likely to promote the welfare of any one or more Counties or Townships, in Agriculture, Horticulture, Arts or Manufactures, and may acquire by purchase or lease and hold sufficient land for this purpose from time to time, and may exchange and sell the same. 20 V. c. 32, s. 54.

Provincial allowance to County Societies and conditions thereof. **58.** Whenever the President and Secretary of the Board of Agriculture certify to the Minister of Agriculture that any County Society has sent to the said Board Reports and Statements as required by this Chapter, for the year then last previous,—and also certify that the Treasurer or other Officer of the said Society, has transmitted to the said Board an Affidavit, (which may be in the form of the Schedule B to this Chapter annexed, and may be sworn to before any Justice of the Peace),—stating the amount subscribed for that year and paid to the Treasurer of the County Society by the Members thereof, and by the several Township Societies of the said County, the Governor may issue his Warrant in favor of such County Society for a sum, to be paid out of any unappropriated moneys in the hands

hands of the Receiver General, equal to three times the amount appearing by the said affidavit to be in the hands of the Treasurer;

2. But no Grant shall be made unless twenty-five pounds be first subscribed and paid to the Treasurer ; Proviso.

3. And the whole amount granted to any such Electoral Division Society shall not exceed two hundred pounds in any year ; Proviso.

4. Except that each of the Counties of Lennox and Addington, Huron and Bruce, separately, shall be entitled to receive a sum not to exceed two hundred pounds, on the conditions specified in this Chapter, and that the Counties of Prince Edward, Welland, Haldimand, Grey, Holton, Kent, Carleton, Essex, Lambton, Lincoln, Norfolk, Peel and Perth, shall each be entitled to receive as heretofore a sum not exceeding two hundred and fifty pounds in any year, and on the conditions aforesaid. 20 V. c. 32, s. 55. Exception.

50. The following Electoral Divisions, namely :—the City of Toronto,—the City of Kingston,—the City of Hamilton,—the Town of Brockville,—the Town of Niagara,—the Town of Cornwall,—the City of London,—and the City of Ottawa, as bounded for purposes of Representation in the Legislative Assembly,—shall each be entitled to receive a sum not exceeding one hundred pounds for the encouragement of Horticulture, Agriculture, Manufactures and Works of Art within their respective limits :

Provided that a full equivalent for the sum to be so paid by the Government, is subscribed and paid to the Treasurer of a Society to be formed within such Electoral Division, in the same manner as County Agricultural Societies under section 30 of this Chapter, and to be called "The Society for the Upper Canada Electoral Division of _____," or as the case may be. 20 V. c. 32, s. 56.

60. Every Township or Branch Society organized according to the Act 16 V. c. 11, or to this Chapter, and sending a report of its proceedings to the County Society, as hereinbefore required, shall be entitled to a share of the grant to the County Society, in proportion to the amount subscribed by the Members of such Township or Branch Society, and deposited with the Treasurer of the County Society, on or before the first day of May, in each year, as compared with the amounts so deposited by the other Township and Branch Societies of the County ; and the sum so deposited by any Township or Branch Society shall be repaid, along with its share of the Public Grant, so soon as the said grant is received by the County Society : Allowance to certain special Electoral Divisions.

Proviso. 2. Provided that three-fifths and no more of the sum so received by any County Society shall be subject to division among Township or Branch Societies; and provided that the declaration mentioned in section *fifty-four* shall be deemed a sufficient report for the first year in which any Township or Branch Society has been organized, and that no Township or Branch Society shall thus receive more than three times the amount so deposited by it as aforesaid; 5

Proviso. 3. And provided that nothing in this Chapter contained shall be construed as admitting any Member of a Township Society, in 10 virtue of his subscription thereto, and without further subscription to the County Society, to any of the privileges of a Member of such County Society. 20 V. c. 32, s. 57.

Board of Agriculture to receive and pay grants, retaining one tenth. **61.** The Board of Agriculture shall receive from Government, and pay over to the County Societies, the Public Grants 15 to which they are respectively entitled; and the said Board may retain, for the use of the Agricultural Association, one tenth part of all such grants. 20 V. c. 32, s. 58.

Penalty on Treasurer certifying falsely as to subscriptions. **62.** Any Treasurer or other Officer of any County, Township or Branch Society, who makes affidavit that a subscription, 20 or any sum of money, has been paid to him for the Society, when it has not been so paid, or who returns any such subscription, shall forfeit and pay to Her Majesty the sum of Ten Pounds for every such offence, and shall be guilty of perjury and be held liable to all the penalties with which the law visits that 25 crime. 20 V. c. 32, s. 59.

Certain corporate powers of County Societies. **63.** The several County Societies organized according to the provisions of this Chapter, or of the said Act 16 V. c. 11, or of any Act thereby repealed, shall be and continue Bodies Corporate, with power to acquire and hold land as a site for Fairs 30 and Exhibitions, or for a School Farm, and to sell, lease, or otherwise dispose of the same; And any Township or Branch Society lawfully organized as aforesaid, may at any regular Meeting adopt a Resolution that the said Society is desirous of being incorporated, and upon filing the said resolution 35 with the Secretary of the Board of Agriculture, such Society shall thenceforth be and become a Body Corporate, and shall have like powers with County Societies. 20 V. c. 32, s. 60.

Township Societies may become incorporated. **64.** Any County or Township Society, or the Municipal School farms may be established by County or Township Societies, or Municipalities. **64.** Any County or Township Society, or the Municipal Council of any County or Township of Upper Canada, may 40 purchase and hold land for the purpose of establishing a School-Farm to instruct pupils in the science and practice of Agriculture; And any Society and any Municipal Council may purchase and hold such School-Farm conjointly or otherwise, and may conjointly or otherwise make all necessary rules and 45 regulations for the management thereof, provided that not more than one hundred acres of land shall be so held by any Society or

or Council, whether conjointly or otherwise. 20 V. c. 32, s. 61.

65. Whenever any property, real or personal, in any one or more of the Electoral Divisions, originally belonged to the County Society of the County of which the said Electoral Division formed a part, the said property or the value thereof shall be equitably apportioned or divided by Arbitrators or a majority of them, one to be appointed by the Directors of the Society in each such Electoral Division, and another Arbitrator to be chosen by the Arbitrators so appointed. 20 V. c. 32, s. 63.

As to property of County Societies when the County has been divided.

66. The word "County" in the sections of this Chapter applying to Agricultural Societies in Upper Canada, means "Electoral Division," except where such construction is inconsistent with the express enactment in which such word is used; And the words "Electoral Division" whenever used herein, mean a Division for purposes of representation in the Legislative Assembly: 20 V. c. 32, s. 62.

Interpretation clause.

2. And the provisions of the said sections with regard to Grants and Electoral Divisions, conditions of Grant, &c., &c., shall extend to any new Counties or new Electoral Divisions to be formed in Upper Canada; Except that no new Electoral Division shall be entitled to more than two hundred pounds. 20 V. c. 32, s. 64.

Act to apply to Counties, &c., to be hereafter formed.

AGRICULTURAL SOCIETIES IN LOWER CANADA.

Formation of each Societies.

67. Subject to the provisions hereinafter made, a County Agricultural Society may be organized in each of the Counties of Lower Canada, whenever forty persons have become members thereof, and have paid a sum not less than twenty pounds, and signed a declaration in the form of the Schedule C to this chapter annexed. 20 V. c. 49, s. 2.

Organization of Societies.

68. Upon a memorial, or memorials, from different parts of any County, any one or all of which is or are signed by twenty persons,—representing to the Board of Agriculture that it is inconvenient, on account of distance, for the members of the section in which the signers reside to attend the Exhibitions of the County Society, and that a sufficient number of persons are willing to subscribe the amount necessary to form an Agricultural Society, under the provisions of this Chapter,—the said Board shall examine such request, and if they are of opinion that another Society may be advantageously organized in the said County, the Board may authorize the same to be organized accordingly, with the sanction and approval of the Minister of Agriculture, after such notice

Organization of a second County Society in any County.

notice as he may advise, and shall prescribe the limits or section of the County within which its operations shall be confined ; and the first County Society shall confine its operations to the other or remaining section of the County :

Certain amount of subscription must be paid.

2. But a sum not less than ten pounds shall be paid before any such separate Society shall be formed, and no more than one such Society in addition to the said County Society shall be so organized, except in the County of Gaspé. 20 V. c. 49, s. 11.

Name and powers of such second society.

69. The second Society so organized in any County, shall be known as the " County of Agricultural Society, number Two,"--and the declaration or instrument of organization shall be the same as is hereby required for County Societies, except that the prescribed limits of the Society's operations shall be specified therein:

Share of grant.

Every such additional County Society shall be entitled to a share of the public grant in the ratio of its paid-up subscriptions to those of the rest of the County, and shall have all the powers of a County Society, and shall be subject to all the provisions of this Chapter relating to County Societies;

Condition.

No such separate or additional County Society shall be entitled to any share of the public grant for the year in which it is formed, unless such formation has taken place before the first day of May in such year. 20 V. c. 49, s. 12.

Certain societies to retain their limits.

70. The Agricultural Societies existing in the Counties of Vaudreuil, Bonaventure and Nicolet, on the nineteenth day of June, 1856, shall retain the limits they then had respectively, and shall be continued under their then organization :

County of Drummond to be divided into two societies, &c.

2. The County of Drummond shall be divided so as to form two Societies, the operation of the second of which shall extend over the Townships of Kingsey, Simpson, Durham, and the five lots of the four first ranges, and the two first lots of all the other ranges of the Township of Wickham ; 19, 20 V. c. 47, ss. 2, 3.

Four societies allowed in Gaspé.

3. In the County of Gaspé four Agricultural Societies may be established instead of two, namely, one at Amherst in the Magdalen Islands, and one at Ste. Anne des Monts in the Municipality of Ste. Anne des Monts and Cape Chat, besides the two Agricultural Societies established and in operation in the said County, on the twenty-seventh day of May, 1857, which shall retain the limits and organization they had on the nineteenth day of June, 1856 ; 20 V. c. 117, s. 1,—and 19, 20 V. c. 47, ss. 2, 3.

4. The sum to which the said County of Gaspé is entitled out of the annual Legislative appropriation, shall be *equally* divided among all the said Agricultural Societies in the said County of Gaspé then in operation. 20 V. c. 117, s. 2. Government grant to be equally divided

5 **71.** The first meeting in each County must have been called by the Warden of the County,—at the *chef-lieu* where there is but one Society and at the most frequented place within the territorial limits where there are two Societies,—in the third week of January, one thousand eight hundred and fifty-eight, after notice of the object, and the time and place of such meeting publicly given in the newspapers of the County, or by placards posted up in different places in the County for at least one week previously, and the Society, then and there organized, shall be and be held to be, the County Agricultural Society; *But see* 15 22 V. c. 29, s. 3. First meeting in each County to be called by the warden.

2. Provided, that in those Counties in which there was only one Agricultural Society in operation on the *tenth day of June, 1857*, and organized prior to the nineteenth day of June, 1856, the Agricultural Society of such County may re-organize under this chapter through the President or Vice-President of such Society giving notice as required by this chapter; and in such case a statement of such organization shall be transmitted through the Warden of the County to the Board of Agriculture. 20 V. c. 49, s. 4—*part—see s. 75.* Proviso.

Objects and Powers of such Societies.

72. Each Agricultural Society organized for a County or part of a County in Lower Canada, shall be a corporation, with power to acquire and hold land as a site for Fairs and Exhibitions or for a Model or School Farm, and to sell, lease, or otherwise dispose of the same; but not more than two hundred acres shall be so held at any one time: Corporate powers.

3. Two or more County or separate Societies may unite their funds, or any part thereof, for purchasing land and all requisites for a Model Farm, or land on which to erect buildings for Exhibitions—or for giving prizes for Agricultural produce, Animals, articles of Manufacture and Works of Art, or for any other purpose calculated to encourage the welfare of the Province, not inconsistent with this chapter. 20 V. c. 49, s. 13. Two or more societies may unite to purchase a model farm.

73. The object of the said Societies shall be— to encourage improvement in Agriculture, Horticulture, Manufactures and Works of Art— Objects of Societies.

1. By holding meetings for discussion, and for hearing lectures on subjects connected with the theory and practice of improved husbandry; Lectures, &c.

Periodicals. 2. By promoting the circulation of the Agricultural periodicals published in this Province ;

Seeds, &c. 3. By importing, or otherwise procuring, seeds, plants, and animals of new and valuable kinds ;

Prize Essays. 4. By offering prizes for essays on questions of scientific enquiry relating to Agriculture ;

Premiums for certain things. 5. And by awarding premiums for excellence in—the raising or introduction of stock,—the invention or improvement of Agricultural Implements and Machines,—the production of grain and all kinds of vegetables,—for excellence in any Agricultural or Horticultural production or operation,—and generally for improvements in any articles of Manufacture or works of Art ;

How funds are to be expended. 6. And the funds of the Societies derived from the subscriptions of members, or the public grant, shall not be expended for any object inconsistent with this chapter. 20 V. c. 49, s. 3.

Annual shows. 74. Each County Society or Society for part of a County established as above mentioned, shall be required in each year to hold at least one Show, for the exhibition of Agricultural produce, Farm stock, and all other objects relative to Agriculture, and also of articles of Manufacture generally, and of works of Art :

Prizes. Prizes shall be granted at the said Shows for the best specimens produced in the manner to be prescribed by the Board of Officers and Directors, and whereof notice shall be publicly posted in each parish and township of the County ;

Distribution of prizes, &c. The said prizes may be distributed in money, books on Agriculture, Agricultural Implements of an improved description, or grain of superior quality, on the award of at least two Judges, who shall be appointed by the Officers and Board of Directors of the Society ; —But the said Judges shall not receive any of the prizes so awarded, and shall not be allowed more than ten shillings for inspecting at a Show, nor more than four pounds for the inspection of growing crops. 20 V. c. 49, s. 8.

Judges not to receive prizes.

Model Farm. 75. If the Board of Officers and Directors of any County Society consider that any other system might advantageously be substituted for that of Shows, and that the sum allotted to each County might be better applied either to the establishment of one or two Economical Model Farms or Agricultural Schools, or for a public Granary, or to any other purpose for the improvement of Agriculture, or the encouragement generally of improvements in articles of Manufacture and works of Art, then such Society, through its Board of Officers and Directors may

Public Granaries, &c. Improvements in manufactures, &c.

may so apply the said sum, provided notice thereof has been given to the Board of Agriculture, and its approval of such proposition obtained. 20 V. c. 49, s. 9.

76. No portion of the moneys belonging to any such Society shall be applied to the payment of any salary or allowance;—except, that a sum not exceeding seven per cent. shall be allowed to the Secretary-Treasurer on all moneys expended by such Society under this Chapter, in lieu of salary and allowance for Stationery and other contingent expenses. 20 V. c. 49, s. 10.

Salary of Secretary-Treasurer.

Meetings and Officers.

77. The said Societies shall hold their annual meetings in the third week of the month of January in each year, in the manner hereinafter prescribed :

Annual meetings.

2. Each such Society shall, at such meeting, elect a President, a Vice President and a Secretary-Treasurer, and not more than seven Directors, all of whom shall form the Board of Directors for such Society ;

Officers and Boards.

3. But with a view to encourage improvements in articles of Manufacture and works of Art, the President of each Mechanics' Institute, if any, within the limits of such Society, contributing two pounds ten shillings for the year to the funds of said Society, or some fit person to be appointed by each such Institute, shall be *ex officio* a member of the said Board. 20 V. c. 49, s. 4--part.

Ex Officio members for Mechanics' Institutes.

78. The Officers and Directors of each such Society shall, for the year next following the annual meeting, and until the election of their successors, exercise all the powers vested in the Society by this chapter :

Powers of Officers and Directors.

2. They shall hold their meetings, pursuant to adjournment or written notice to each, from the President, or, in his absence, from the Vice-President or a President appointed *pro tempore*, which shall be given, at least one week before the day appointed for such meeting ;

3. At any such meeting five shall be a quorum ;

Quorum at meetings.

4. And the said Officers and Directors may, at every such meeting, make, alter and repeal By-laws and Rules for the management of the Society. 20 V. c. 49, s. 5.

By-laws.

79. The said Officers and Directors shall, in addition to the ordinary duties of management, cause to be prepared, and shall present, at the annual meeting, a report of their proceedings during the year, in which shall be stated--the names of all the members

Annual reports and statements, and what they shall contain.

members of the Society,—the amount paid by each,—the names of all persons to whom premiums were awarded,—the amount of each premium respectively, and the name of the animal, article or thing in respect to which the same was granted,— together with such remarks upon the Agriculture of the County, the improvements which have been or may be made therein as the Directors are enabled to offer :

Statements of accounts.

2. There shall also be presented, to the *second* annual meeting, a detailed statement of the receipts and disbursements of the Society during the year ;

Entry of Statement.

3. The said report and statement, if approved by the meeting, shall be entered in the Society's journal to be kept for such purposes, and signed by the President, or Vice-President, as being a correct entry,—and a true copy thereof certified by the President, Vice-President, or Secretary for the time being, shall be sent to the Board of Agriculture on or before the first day of April following. 20 V. c. 49, s. 6.

Duties of Officers and Directors.

80. The said Officers and Directors shall answer such queries, and give such information relating to Agriculture as the Minister of Agriculture or Board of Agriculture may from time to time, by circular, letter or otherwise, require, touching the interests or condition of Agriculture in their County, and generally shall act as far as practicable upon the recommendation of the said Board. 20 V. c. 49, s. 7.

Provincial Aid to such Societies.

Allowance out of Public moneys to Societies on certain conditions.

81. When the President, Vice-President and Secretary of the Board of Agriculture certify to the Minister of Agriculture that any Society has sent to the said Board the Reports and Statements required by this Chapter for the year then last previous, and also certify that the Treasurer or other officer of the said Society has transmitted to the said Board an affidavit (which may be in the form of Schedule D of this Act, and may be sworn to before any Justice of the Peace,) stating the number of members then belonging to the said Society whose subscriptions for the then current year have been paid up and are in the hands of the Treasurer, the Governor may issue his Warrant in favor of such Society for a sum to be paid out of any unappropriated moneys in the hands of the Receiver General, equal to three times the amount appearing, by the said affidavit, to be in the hands of the Treasurer :

Proviso.

Provided that no grant shall be made unless twenty pounds be first subscribed and paid to the Treasurer ; and that the whole amount granted to any County Society or to the Societies of any County, if more than one be organized therein, shall not in any year be more than two hundred pounds ; and that no separate

separate Society constituted as mentioned in sections *sixty-eight, sixty-nine and seventy*, shall receive more than one half of the grant given to the County Society. 20 V. c. 49, s. 14.

5 **82.** Any Treasurer or other Officer of a Society who makes an affidavit before any person authorized by Law to administer an oath, that a subscription, or any sum of money has been paid to him for the Society, when it has not been so paid, or who returns any such subscription as a *bond fide* subscription, 10 knowing the same not to be *bond fide*, shall be held to have committed perjury. 20 V. c. 49, s. 16. Penalty for false statement of subscription.

83. The Board of Agriculture shall receive from Government, and pay over to the Societies, the public money to which they are respectively entitled, and if two Societies be organized in any County and they together raise a sum exceeding twenty pounds, the Board shall divide the County Grant between them in proportion to the amount subscribed and paid by each; But the said Board may retain, for the use of the Agricultural Association, one tenth part of each such grant. 20 V. c. 49, s. 15. Division of County grants through the Board of Agriculture which may retain one tenth.

Interpretation—and moneys received under former Acts in Lower Canada.

84. In the Sections of this Chapter applying to Agricultural Societies in Lower Canada, the words "Electoral Division" mean a Division for purposes of representation in the Legislative Assembly: 20 V. c. 49, s. 21. Interpretation clause.

25 **2.** Every such Electoral Division shall be deemed a County within the meaning of the said sections, and all the provisions hereof relating to Agriculture in Lower Canada, shall apply to such Electoral Division; Except that whenever any such **30** Electoral Division does not embrace the limits of a County proper, it shall not be entitled to more than one half of the amount of the public grant for a County; 20 V. c. 49, s. 17. Electoral Divisions to be deemed Counties.

3. The sections of this chapter relative to Agricultural Societies in Lower Canada, shall, as regards Grants, Counties and Electoral Divisions, conditions of Grants, &c., &c., &c., **35** extend to any new Counties or new Electoral Divisions to be hereafter formed in Lower Canada, except that no new Electoral Division shall be entitled to more than two hundred pounds for any year; 20 V. c. 49, s. 20. As to future Counties, &c.

4. And the word "Subscription," in this chapter, includes **40** payment of the amount subscribed as well as the mere act of subscription. 20 V. c. 49, s. 21.

85. All sums of money paid to Agricultural Societies before the tenth day of June, 1857, and remaining unexpended in the hands of any person, or the heir or representative of any person **45** who has been Treasurer of a former Society, shall by him be paid Payment and application of funds of deceased Treasurer.

paid over to the Treasurer of the new County or other Society, comprising the territory out of which the former Society was formed, and shall be applied by the Treasurer to whom the money is so paid, or by his successor, to the purposes of such new Society, and if not so paid may be sued for and recovered by the new Society as a debt due to the same:

For arbitration in certain cases where more than one society may have a claim.

2. And if there be any property real or personal in the hands of any one Society organized under this chapter, which belonged wholly, or in part, to any other Society organized under former Acts or under this chapter, and comprising the territory or part thereof, out of which the said Society not enjoying possession of said property, was formed, then, and in that case, the said property, or the value thereof, may be equitably divided by arbitration to be arranged between the parties;—And if the Society so holding such property refuses or neglects to arbitrate or to divide the same, or the value thereof, or to comply with any award made upon any such arbitration, the Society aggrieved may sue at law and recover its proportion of the same, or the amount to which it is entitled by any such award, in any Court of Civil Jurisdiction, and the Minister of Agriculture may order the grant of public money payable to such defaulting Society to be withheld while such default continues. 20 V. c. 49, s. 18.

Moneys in the hands of Treasurers of former societies to be paid over to present Treasurers, and in what proportions in certain cases.

86. All sums of money in the possession of any Agricultural Society, formed before the passing of the Act 19, 20 V. c. 47, or before the passing of the Act 16 V. c. 18, and remaining unexpended in the hands of any person who has been the Treasurer of such former society, shall by him be paid over to the Treasurer of the present Society for the County or portion of a County comprising the County for which such former society was formed; and in the event of the County for which such former Society was formed being divided between two or more Counties, then to the Treasurers of the present Societies for such Counties or for portions of such Counties, in proportion to the population by the last Census of the respective portions of the territory of such former Society comprised in the territories of such present Societies respectively,—and shall be applied by the Treasurer to whom the same shall be so paid, or his successor, to the purposes of such present Society; And if any such moneys are not so paid over by the Treasurer of such former Society to the Treasurer of such present Society as hereinbefore mentioned, they may be recovered by the Society to whose Treasurer they ought to have been paid, as a debt due to such Society. 20 V. c. 50, s. 1. *And see also 22 V. c. 29, confirming the organization of Societies notwithstanding irregularities, and giving a longer time to organize, &c.; But that Act expired on 29th September, 1858, under its section.*

MUNICIPAL AID TO AGRICULTURAL SOCIETIES IN UPPER OR LOWER CANADA.

87. The Municipality of any City, Town, Village, County or Township in this Province, may grant money or land in aid of the Agricultural Association for that section of the Province to which the Municipality belongs, or of any Agricultural or Horticultural Society whatever duly organized under this chapter, or of any incorporated Mechanics' Institute, within the limits of such Municipality. 20 V. c. 32, s. 36.

Municipalities may grant money or land in aid of purposes of this Chapter.

SCHEDULE A.

We, whose names are subscribed hereto, agree to form ourselves into a Society, under the provisions of the *Act respecting the Bureau of Agriculture and Agricultural Societies*, to be called the (County, Electoral Division, Township or Branch, as the case may be,) Agricultural Society of the County of (or Township of); And we hereby severally agree to pay to the Treasurer yearly, while we continue Members of the Society, (any member being at liberty to retire therefrom upon giving notice in writing to the Secretary, at any time before the annual meeting, of his wish so to do,) the sums opposite our respective names; and we further agree to conform to the Rules and By-Laws of the said Society.

Names.	£.	s.	d.

20 V. c. 32—Schedule A.

SCHEDULE B.

County of _____
to wit: }

I, A. B., of the Township of _____, Treasurer of the County Agricultural Society of _____, make oath and say, that the sum of _____ has been paid into my hands, since _____

since the first day of February last, by the Township Agricultural Societies of the said County, as and for the Members' subscription for this year; and that the sum of _____ has been paid into my hands, as subscriptions for this year, by members of the said County Society; and that the said sums, making in the whole the sum of _____, now remain in my hands, ready to be disposed of, according to law.

Sworn to before me this

day of

A. D. 185 .

C. D.

Justice of the Peace for the

County of

A. B.

20 V. c. 32—Schedule B.

SCHEDULE C.

We, whose names are subscribed hereto, agree to form ourselves into a Society, under the provisions of the Act respecting the Bureau of Agriculture and Agricultural Societies, to be called the County of (name of County) Agricultural Society, (or if there be a Society already organized under this chapter in the said County, add the words "number two," "three," or "four," as the case may be, and state the part or section of the County to which its operations are intended to be confined.)

And we hereby severally agree to pay to the Treasurer yearly, while we continue Members of the Society, the sum set opposite our respective names; And we agree to give written notice to the Secretary whenever we wish to withdraw from the Society; And we further agree to conform to the Rules and By-Laws of the said Society.

Names.	£	s.	d.

20 V. c. 49—Schedule A.

SCHEDULE

SCHEDULE D.

County of

I, A. B., of the County of _____, Treasurer (or other officer) of the County of _____ Agricultural Society (number two, three or four, as the case may be,) make oath and say, that there are forty (as the case may be) Members belonging to the said Society who have paid their subscriptions for the present year; and that there is now in my hands the sum of £ _____, being the produce of such subscriptions, ready to be disposed of according to Law.

A. B.

Sworn to before me }
this day of }
A. D. 185 . }

C. D.

Justice of the Peace.

20 V. c. 49--Schedule B.

CAP. XXXIII.

An Act respecting the Board of Registration and Statistics, and of the Census and Statistical information.

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

BOARD OF REGISTRATION AND STATISTICS.

- 1.** The Minister of Agriculture, the Receiver General, and the Secretary of the Province, shall constitute and be a Board of Registration and Statistics. 10, 11 V. c. 14, s. 2,—*am. 20 V. c. 32, s. 5.*
- 2.** The said Board shall have the general supervision of the Statistics of the Province, and shall cause to be prepared annually, and laid before the Legislature, a general Report of the Statistics of the Province, in such form as to them seems fit, which said Report shall contain all such information relative to the Trade, Manufactures, Agriculture and Population of the Province as they are able to obtain. 10, 11 V. c. 14, s. 3.
- 3.** The said Board shall prepare and cause to be printed and circulated as hereinafter provided, all such forms and schedules as to them seem best adapted for the purposes of this Chapter. 10, 11 V. c. 14, s. 2.
- 4.** The Minister of Agriculture shall be the Chairman of the said Board, and shall, under the general directions of the Board, have charge of the Census and other Statistical returns. 10, 11 V. c. 32, s. 5.
- 5.** The Governor may appoint a Secretary to the said Board, or assign the duties of that office to any clerk in any one of the offices the heads of which constitute the Board. 10, 11 V. c. 14, s. 4.

PERIODICAL CENSUS OF THE PROVINCE.

When to be taken.

- 6.** Subject to the provision in the next following section,—The Census of this Province shall be taken, and the other statistical information hereinafter mentioned shall be obtained, in the month of January, one thousand eight hundred and sixty-one, and in the same month in the year one thousand eight hundred and seventy-one, and so in every tenth year thereafter. 14, 15 V. c. 49, s. 2.
- 7.** But if at any time it appears to the Governor in Council that from any cause, the Census cannot be taken in any County in

in the month of January when it ought to be taken in pursuance of this chapter, he may, by proclamation to be published in the *Canada Gazette*, declare and ordain that the Census shall be taken in such County in some other month, being the nearest to the month in which it ought to be taken as aforesaid, that circumstances and the nature of the case will admit, and thereupon, the Census shall be taken in such County accordingly in the same way and with the same effect as if taken in the month in which, without such Proclamation, it would be taken under this chapter. 14, 15 V. c. 49, s. 20.

Governor may, by Proclamation, alter the time for taking the census in any County.

How to be taken.

8. The said Census shall be taken under the superintendence of the Board of Registration and Statistics, which shall from time to time frame instructions for the guidance of the persons employed in taking the same, and forms to be used by them, and shall cause such instructions and forms to be printed and distributed in such numbers as will be requisite for the purposes of this chapter. 14, 15 V. c. 49, s. 3.

Census to be taken under superintendence of the Board, which shall frame instructions, &c.

9. The instructions and forms aforesaid may extend to all the heads of statistical information included in the Schedule A annexed to this chapter, and to such other or further statistical information as the said Board deems of public interest and importance. 14, 15 V. c. 49, s. 4.

Extent of Instructions.

10. The Governor may appoint a Census Commissioner to act in and for each County of this Province, exclusive of any City in such County, and of any incorporated Town therein containing by the then last Census five thousand souls or upwards, and a Census Commissioner to act in and for each City and each such incorporated Town as aforesaid. 14, 15 V. c. 49, s. 5.

Governor may appoint a census Commissioner.

11. The Census Commissioner for each such locality as aforesaid, shall appoint one or more Enumerators to act in Upper Canada in and for each Township Municipality therein (whether composed of one Township or of more than one), and in Lower Canada, in and for each Parish, extra-parochial place or Township,—and in and for each Ward of any City or incorporated Town, in both sections of the Province :

Census Commissioner to appoint one or more enumerators.

2. Each place for which an Enumerator is appointed shall be known as an "Enumeration District," and the Census Commissioner may divide any such Municipality, Parish, extra-parochial place or Ward into two or more Enumeration Districts, and appoint one or more Enumerators for each, whenever he deems it expedient ;

Enumeration Districts, how known.

3. But every Penitentiary, Gaol or House of Correction, Public Hospital or Lunatic Asylum, to be named for the purpose by the Board of Registration and Statistics, shall be a separate Enumeration District, in and for which the

Penitentiary, &c., to be a separate Enumeration District.

Warden, &c.,
to be enumerator.

Warden, Gaoler, Keeper, or other person having charge thereof shall be the Enumerator by virtue of his office. 14, 15 V. c. 49, s. 6.

Enumerators
to act immediately
under
Census Commissioner.

Duty of the
Census Commissioner.

12. The said Enumerators shall act under the immediate instructions and directions of the Census Commissioner for the County, City or Town within which they are respectively to act;—And it shall be the duty of each Census Commissioner to instruct each Enumerator under him, and to see that he perfectly understands the duties he is to perform under this chapter, and to furnish him with the proper forms;—and also to cause public notice to be given of the taking of the said Census, and of the information which all persons are required to give to the said Enumerators, and the manner and time in and at which the same is to be given, and the penalties to be incurred for refusing or neglecting to give it. 14, 15 V. c. 49, s. 7.

Duty of Enumerator.

13. On the second Monday in January, one thousand eight hundred and sixty-one, and on the second Monday in January in every year thereafter in which the Census is to be taken, and upon such number of days next after each such Monday as may be necessary,—every Enumerator shall, under the instructions of the Census Commissioner under whom he is to act, visit every house in his Enumeration District, and shall diligently and faithfully take an account in writing of the name, sex, age and occupation, of every living person who abode therein on the night of the Sunday next preceding such Monday,—and shall also ascertain who of such persons are transient passengers, having their permanent residence elsewhere, and whether such residence is in Lower Canada or in Upper Canada, or out of this Province, (and the name, sex, age and occupation of every person usually a resident therein, but temporarily casually absent, distinguishing such persons from others);—and shall also collect and take an account of all further information required by his instructions:

Enumerator
to make declaration, &c.

2. Having entered such account in writing, in the form furnished him for that purpose, the Enumerator shall then, before some Justice of the Peace, make and sign a solemn declaration (to be printed at the foot of the proper form) that he has faithfully and diligently taken the said account, and obeyed the instructions he has received touching the same, and that to the best of his belief the same is correct as far as can be known;

Enumerators
account to be
delivered
before 15th
February.

Census Commissioner
to examine
accounts, &c.

3. On or before the fifteenth day of February, the Enumerator shall deliver the account so attested to the Census Commissioner under whom he acts. 14, 15 V. c. 49, s. 8.

14. Every Census Commissioner shall, immediately on receiving the said Accounts, carefully examine the same, in order to ascertain whether the instructions given to the Enumerators have

have been punctually complied with,—and if not, he shall cause any defect or inaccuracy therein to be supplied as far as may be possible;—And if any Enumerator does not take or deliver his account to the proper Census Commissioner within the time hereby prescribed, such Census Commissioner shall cause the same to be forthwith taken and delivered to him. 14, 15 V. c. 49, s. 9.

15. So soon as any Census Commissioner has received all the accounts of the Enumerators acting under him, and has examined the same, and satisfied himself that they have been made as accurate as possible, he shall sign a Certificate, to be printed on each, to that effect, and shall deliver them to the Board of Registration and Statistics :

To be delivered to the board.

16. The Board shall examine the accounts, and cause any defects or inaccuracies they discover therein to be corrected as far as possible, and shall then make such abstracts thereof, and compile such tables therefrom as the Governor in Council shall direct ;

Board to examine the accounts and make abstracts, &c.

17. And such abstracts and tables shall be laid before the Provincial Parliament at its then next session; such of them as the Governor in Council thinks proper being published in the meantime for the information of the public. 14, 15 V. c. 49, s. 10.

Abstracts to be laid before Parliament.

Special powers and duties of Enumerators.

18. Each Enumerator in the Cities and incorporated Towns, and in such other localities as the Board of Registration and Statistics think proper, shall be supplied with printed Schedules for the purpose of being left by such Enumerator for the occupant of each house, or of any story, apartment or portion thereof in his District, and filled up by such occupant :

Enumerator to leave printed Schedules at each house, &c.

19. Each Enumerator receiving such Schedules shall leave one copy or more thereof at each house in his Enumeration District, in the course of the week ending on the Saturday next before the second Monday in January; And upon each such Schedule there shall be a notice, that such Schedule is to be filled up and signed by the occupant of such house,—or by the occupant of any distinct story, apartment or portion thereof, where the house is let in different stories, apartments or portions, and occupied distinctly by different families or persons,—and that the Enumerator will call for the same on the Monday then next following ;

When he shall so leave them.

Notice upon such Schedule &c.

20. Every occupant of any house, or of any distinct story, apartment or portion thereof, with or for whom any such Schedule is left as aforesaid, shall fill up the same to the best of his or her knowledge or belief, and sign the same, so far as relates to all persons dwelling in the house, story or apartment occupied by him or her, and shall deliver the same to the Enumerator when

Occupant to fill up notice, &c.

And deliver the same to the Enumerator.

when required by him so to do,--or in the absence of such occupant some other member of the family, (if any of them be capable of so doing,) shall fill up and sign and deliver the same to him ;

Penalty for contravention. 4. Every such occupant who wilfully or without lawful excuse 5
refuses or neglects to fill up such Schedule to the best of his or her knowledge and belief, or to sign and deliver the same as aforesaid when required,--or who wilfully makes, signs or delivers, or causes to be made, signed or delivered, any false return of all or any of the matters specified in any such Schedule,--shall thereby incur a penalty of not less than two nor 10
more than five pounds. 14, 15 V. c. 49, s. 11.

When the schedules shall be collected. 17. Each Enumerator shall collect the said Schedules, in his own District, from house to house, on the Second Monday in January, or so soon as possible thereafter,--and 15
shall, on receiving the same, examine them to see that they are properly filled up and signed, and if, either at that time or thereafter, he believes any such Schedule to be erroneous or defective, he shall forthwith proceed to complete or correct the same, for which purpose he shall have the same power to make all 20
necessary inquiries as if no such Schedule had been made or left as aforesaid :

Enumerators' account to be delivered to the Census Commissioner who shall deliver them to the Board. 2. When the Schedule is so completed or corrected, the Enumerator shall copy the information therein contained into the Account to be by him taken as aforesaid, and shall add 25
thereto the account he has taken and the information he has collected, of persons and things not returned in such Schedules, which he shall deliver, with his said Account, to the proper Census Commissioner, who shall deliver them, with his return, to the Board of Registration and Statistics. 14, 15 30
V. c. 49, s. 12.

Enumerators to ask questions, &c., and to have access to assessment rolls, &c. 18. The Enumerators respectively shall ask of all persons all questions necessary to enable them to take the accounts and obtain the information aforesaid, and which they are authorized to ask by any instructions to be issued by the said Board of 35
Registration and Statistics,--and shall also have free access to all Assessment Rolls and other documents containing statistical information :

Penalty for refusing to answer questions, &c. 2. Any person who refuses or neglects to answer, or wilfully answers falsely any such question, shall, for every 40
such refusal or neglect, incur a penalty of not less than twenty shillings nor more than five pounds in the discretion of the Magistrate before whom the same is sued for ;

3. And the provisions of this section shall not be limited to the time within which the said accounts are to be taken as 45
aforesaid, but shall extend to any questions which it may at any

any time become requisite to ask, in order to correct or supply any supposed error or defect in such Accounts. 14, 15 V. c. 49, s. 13.

5 19. The penalties hereinbefore imposed may be recovered in a summary manner at the suit of any Enumerator, before any one Justice of the Peace having jurisdiction in the place where the offence has been committed, on the oath of the Enumerator or any other credible witness ;--And if the penalty and the costs (which costs shall be taxed by the Justice, but shall in no case exceed ten shillings,) are not forthwith paid upon conviction, the convicting Justice may, in his discretion, cause the same to be levied by distress and sale of the goods and chattels of the offender by Warrant under his hand and seal,--or may commit the offender to the common gaol of the place, for any period not exceeding one month, or until the penalty be paid ;--And one moiety of such penalty shall belong to the Crown for the public uses of the Province, and the other moiety to the prosecutor, unless he has been examined as a witness to prove the offence, in which case the whole shall belong to the Crown for the uses aforesaid. 14, 15 V. c. 49, s. 14.

Penalties how recoverable.

Costs.

Distribution of penalty.

20. If any Census Commissioner or Enumerator wilfully disobeys or contravenes any of the provisions of this Chapter, or wilfully makes any false declaration or return under the same, he shall be guilty of a misdemeanor, and shall be liable to a penalty not exceeding twenty-five pounds nor less than five pounds, in the discretion of the Court before whom the conviction shall be had, and to imprisonment until such penalty be paid ;--and such penalty shall belong to the Crown for the public uses of the Province. 14, 15 V. c. 49, s. 15.

Penalty on Census Commissioner or Enumerator contravening.

21. The power of appointing any officer under this Chapter includes the power of removing him and appointing another in his stead ;--Any letter purporting to be signed by the Secretary of the Province, and notifying the appointment or removal of any Census Commissioner,--or any letter purporting to be signed by any Census Commissioner notifying the appointing or removal of any Enumerator, or conveying any instruction to him,--or any letter purporting to be signed by the Secretary of the Board of Registration and Statistics conveying any instructions,-- shall be respectively *prima facie* evidence of such appointment, removal or instructions, and that such letter was addressed to the person to whom it purports to be addressed. 14, 15 V. c. 49, s. 16.

Interpretation.

22. The word " House," in this chapter, includes all vessels, and other dwellings or places of abode, of any kind. 14, 15 V. c. 49, s. 19.

Interpretation.

Remuneration of Officers employed.

Remuneration
of Census
Commission-
ers.

23. Each of the said Census Commissioners shall receive an allowance for his services, not exceeding the rate of twelve shillings and six pence per diem for the time during which he shall be actually occupied in his official duties :

Remuneration
of Enumera-
tors.

2. Each of the said Enumerators shall receive an allowance not exceeding the following rates, viz :

At the rate of ten shillings for every hundred persons by him returned when such persons reside in the Country parts ; but with power to the said Board of Registration and Statistics to increase the said rate to a sum not exceeding fifteen shillings for every hundred persons returned, in cases where, from the dispersed situation of the houses, they shall be of opinion that such additional allowance ought to be made, to a sum not exceeding twenty shillings for every fifty persons returned, in cases where the population does not exceed three hundred persons in an area of ten miles square, proportioning such allowance as far as possible to the labor required of the Enumerator. And when such persons reside in any City or incorporated Town, then at the rate aforesaid for the first three thousand persons returned by him, and at the rate of Ten Shillings for every three hundred persons returned by him over three thousand ;

When payable.

3. And the said allowance having been fixed by the said Board, shall be paid to the persons entitled thereto, in such manner as the Governor in Council shall direct : But it shall not in any case be payable until the services hereby required of the person receiving it have been faithfully and fully performed ;

To be paid out
of Consolidat-
ed Revenue
Fund.

4. The said allowance, and all expenses to be incurred by the said Board in carrying this Chapter into effect, shall be paid out of the Consolidated Revenue Fund of this Province. 14, 15 V. c. 49, s. 17.

Report to be
laid before
Parliament
annually.

24. A full Report of all things done under this Chapter, and an account of all moneys expended under the authority thereof, shall be laid before the Provincial Parliament within the first fifteen days of the then next Session thereof. 14, 15 V. c. 49, s. 18.

STATISTICAL RETURNS FROM MUNICIPALITIES, &c.

Clerks of
townships,
&c., to make
annual returns
to Clerks of
Counties, &c.

25. The Clerk of every Township, Village or Town in the Province of Canada shall, within one week after the first day of January in every year, make a Return to the Clerk of the County in which such Municipality is situate, of all the particulars respecting his Municipality for the year then last past, contained in the Schedule marked B appended to this chapter. 16 V. c. 163, s. 1.

36. The Clerk of every County in Upper Canada shall, before the first day of February in every year, prepare and transmit to the Provincial Secretary a Statement of the said particulars respecting all the separate Municipalities within his County, entering each Municipality in a separate line, and the particulars required opposite to it, each in a separate column, together with the sum total of all the columns for the whole County; And he shall also make at the same time a Return of the same particulars respecting his County, as a separate Municipality. 16 V. c. 163, s. 2.

Clerks of Counties to make annual returns to Provincial Secretary.

37. The Clerk of every City in Upper Canada, and the Secretary-Treasurer or Clerk of the Municipality or Corporation of every County, City, Town, Village, Township or Parish in Lower Canada, shall, before the first day of February in every year, make a Return to the Provincial Secretary of the same particulars respecting his County, City, Town, Village, Township or Parish. 16 V. c. 163, s. 3.

Clerks of Cities, &c., to make annual return to Provincial Secretary.

38. The proper Officer shall, before the first day of February, in every year, furnish the Provincial Secretary with a Statement for the year then last past of the gross amount received from the Fee Fund in Upper Canada, and of the expenses of the Administration of Justice paid out of the same, showing also the excess or deficiency, as the case may be, and distinguishing in such Statement the several Cities, Towns, Counties or other Municipalities from and on account of which such sums were received and paid. 16 V. c. 163, s. 4.

Annual account of the Fee Fund, &c., to be furnished Provincial Secretary.

39. The proper Officers shall, on or before the first day of February, every year, return to the Provincial Secretary a Statement in the form given in Schedule C respecting the Jesuits' Estates, and the Common and Grammar School Funds. 16 V. c. 163, s. 5.

Annual return of the Jesuits' Estates, &c. Common and Grammar school Funds, &c.

40. The Treasurer of any County in Upper Canada may retain in his hands any moneys payable to any Municipality, if it is certified to him by the Clerk of the County that the Clerk of such Municipality has not made the Returns hereinbefore required.

In case returns are not made by Clerk of Municipality, &c.

41. The Receiver General may retain in his hands any moneys payable to any Municipality if it is certified to him by the Provincial Secretary that the Clerk of such Municipality has not made the Returns hereinbefore required;

Money may be retained.

42. And any person hereinbefore required to make any Return on a particular day, who fails to make such Return as required, shall be liable to a penalty of not more than five pounds, to be paid to the Receiver General for the use of the Province, which penalty may be sued for and recovered by the Crown in any Court of competent jurisdiction. 16 V. c. 163, s. 6.

Penalty.

43. The Provincial Secretary shall, within ten days after the commencement of every session, lay before both Houses of the Provincial Secretary, to lay the

the

before both Houses of Parlt. all returns, &c.

the Legislature a copy of all the Returns hereinbefore required to be made. 16 V. c. 163, s. 7.

RETURNS OF MARRIAGES, &c., IN UPPER CANADA.

Clergymen, &c., to keep a registry of births, marriages and deaths.

32. Every Clergyman, Teacher, Minister or other person authorized by law to baptize, marry or perform the funeral service in Upper Canada, shall keep a Registry shewing the persons whom he has baptized or married, or who have died within his cure and belonging to his congregation;---and the said Registry shall be forwarded by him to the Clerk of the Peace of the County or Clerk of the City or Town Council of the City or Town, where he resides or officiates at the time, on or within five days after the first day of January in each year. 10, 11 V. c. 14, s. 16, *as amended by* 12 V. e. 90, s. 1.

And forward the same to the Clerk of the Peace, &c.

In case there is no Clergyman, &c.

33. Wherever in Upper Canada no Clergyman, Teacher or Minister of any church or congregation is resident within a reasonable distance of any settlement, then the head of any family belonging to such church or congregation of which a Clergyman is not so resident, in which a birth, death or marriage takes place, shall notify the same to the Clerk of the Township in which he resides, or in case of there not being any such officer, then he shall notify the same to the nearest Township Clerk;---and the Clerk of the Township shall forward the same to the Clerk of the Peace of the County, at the period mentioned in the next preceding section. 10, 11 V. c. 14, s. 17.

Returns to be forwarded to the board.

34. The returns last mentioned shall be forwarded by the respective Clerks of the Peace of the Counties, and Clerks of the City or Town Councils, to the Board aforesaid, on or before the first day of January, in every year. 10, 11 V. c. 14, s. 18.

Coroners to return lists of inquests.

35. In Upper Canada, all Coroners shall return lists of inquests held by them, together with the findings of the Juries, to the said Board, on or before the first day of January, in every year. 10, 11 V. c. 14, s. 19.

Clerks of the Peace to return lists of all convictions &c., in triplicate.

36. All Clerks of the Peace shall furnish in triplicate to the said Board, and at such periods as the Board shall appoint, lists of all convictions had either before Courts of Quarter Sessions or before individual Magistrates within their Counties. 10, 11 V. c. 14, s. 20.

Penalty on persons contravening.

37. Any person neglecting or refusing to comply with the requirements of the five next preceding sections of this chapter, in any matter for which no punishment is therein specially provided, shall be guilty of a misdemeanor, and shall be liable to punishment accordingly; and all penalties incurred under this section shall be distributed and applied in the manner herein provided with regard to other penalties. 10, 11 V. c. 14, s. 21, *and see in U. C., 20 V. c. 66, s. 3, as to returns of Marriages to Registrar.*

SCHEDULE A referred to in Section 9.

HEADS OF STATISTICAL INFORMATION.

Total,	Houses inhabited.	Houses with their local situations in any Range, Concession, Street, &c.	
	Houses Vacant.		
	Houses Building.		
	Name of the head of each family.		
	Proprietor of Real Property.		
	New Proprietor of Real Property.		
	Tenant entitled to vote at any Election in City, Town, &c.		
	Trade or Profession.		
	Total number of inmates in each family, Male and Female, not resident.		
	Number of persons belonging to the family, Male or Female, now temporarily absent.		
	Number of natives of England belonging to each family.		
	do of Ireland, do do		
	do of Scotland, do do		
	do of Canada, do do of French origin.		
	do of Canada, do do of British origin.		
	do of the Continent of Europe, or otherwise specifying the same separately.		
	do of the United States of America.		
	Number of years each person has been in the Province, when not natives thereof.		
	Number of Aliens not naturalized.		
	Male.	Number of persons in the family, five years of age and under.	
	Female.		
	Male.	Number of persons in the family above five and under fourteen years of age.	
	Female.		
	Married.	14 and under 18.	Male.
	Single.		
	Married.	18 and not 21.	
	Single.		
	Married.	21 and not 30.	
	Single.		
	Married.	30 and not 60.	
	Single.		
	Married.	60 and upwards.	
	Single.		
	Married.	14 and not 45.	Female.
	Single.		
	Married.	45 and upwards.	
	Single.		
	Males.	Number of Deaf and Dumb persons in each family and the occupation for which they shew the greatest aptitude.	
	Females.		

E J U G H O P

SCHEDULE A—Continued.

Total,		
	Males.	Number of Blind persons in each family.
	Females.	
	Males.	Number of Idiots in each family.
	Females.	
	Males.	Number of Lunatic persons in each family.
	Females.	
	Number of persons in each family belonging to the Church of England.	
	Number of persons in each family belonging to the Church of Scotland.	
	Number of persons in each family belonging to the Church of Rome.	
	Number of British Wesleyan Methodists in each family.	
	Number of Canadian Wesleyan Methodists in each family.	
	Number of Episcopal Methodists in each family.	
	Number of other Methodists in each family.	
	Number of Presbyterians not in connexion with the Church of Scotland in each family.	
	Number of Congregationalists or Independents in each family.	
	Number of Baptists and Anabaptists in each family.	
	Number of Lutherans in each family.	
	Number of Quakers in each family.	
	Number of Moravians and Tunkers in each family.	
	Number of Dutch Reformed Church in each family.	
	Number of Jews in each family.	
	Number of persons of all other Religious Denominations not herein enumerated in each family.	
	Number of Male colored persons in each family.	
	Number of Female colored persons in each family.	
	Number of Male Farm Servants employed in each family.	
	Number of other Male Servants in private families.	
	Number of other Female Servants in private families.	
	Number of persons engaged in Trade or Commerce.	
	Number of persons in each family subsisting on alms or paupers.	
	Number of acres or arpents of land occupied by each family.	
	Number of acres or arpents of improved land occupied by each family.	
	Wheat.	Produce raised by each family during the last year and estimated in Winchester bushels.
	Barley.	
	Rye.	
	Oats.	
	Pease.	
	Indian Corn.	
	Buck Wheat.	
	Potatoes.	
	Number of Hives of Bees kept by each family last season.	
	Number of pounds of Maple Sugar made by each family last season.	

SCHEDULE

SCHEDULE A—Continued.

Total.	
	Neat Cattle.
	Horses.
	Sheep.
	Hogs.
	Live stock owned by each family.
	Number of yards of Fulled Cloth manufactured in the domestic way in the same family.
	Number of yards of Linen, Cotton or other thin Cloth manufactured in the domestic way in the same family.
	Number of yards of Flannel or other Woollen Cloth, not fulled, manufactured in the domestic way in the same family.
	Number of pounds of Wool procured during the last year in each family.
	Under what tenure such land is held by each family.
	Rate of Seigniorial Rent paid for land held à titre de cens.
	Average money rent of farm farmed by each family.
	Proportion of produce allowed to the Proprietor for land held on lease or cultivated on shares by each family.
	Number of Colleges, Academies and Convents in each Parish, Township, extra-parochial place, Ward or division of Town, &c.
	Number of Elementary Schools in every such place.
	Male.
	Female.
	Number of Scholars at each such College, Academy, Convent or Elementary School.
	Number of Taverns or Houses of Public Entertainment in every such place.
	Number of Stores where Spirituous Liquors are sold in every such place.
	Number of Grist Mills in every such place.
	Number of pairs of Mill-Stones used in each Mill.
	Number of Oatmeal Mills in every such place.
	Number of Barley Mills in every such place.
	Number of Saw Mills in every such place.
	Number of Oil Mills in every such place.
	Number of Fulling Mills in every such place.
	Number of Carding Mills in every such place.
	Number of Thrashing Mills in every such place.
	Number of Paper Mills in every such place.
	Number of Iron Works in every such place.
	Number of Trip Hammers in every such place.
	Number of Nail Factories in every such place.
	The weight of Nails so manufactured in such place.
	Number of Distilleries in every such place.
	Number of Breweries in every such place.
	Number of Tanneries in every such place.
	Number of Pot and Pearl Ash Manufactories in each such place.
	Number of Manufactories of any other sort in every such place containing any Machinery moved by Wind, Water, Steam or Animal power, specifying the purposes to which such Machinery is applied, and by what power it is moved.
	Average price of Wheat in every such place since last harvest.
	Average price of Agricultural Labor per day throughout the year.

SCHEDULE

SCHEDULE B *Referred to in section 25.*

1. Number of persons assessed.
2. Number of acres assessed.
3. Total of rentals of real property.
4. Total of yearly value other than rentals of real property.
5. Total actual value of real property.
6. Total of taxable incomes.
7. Total value of personal property.
8. Total yearly value of personal property.
9. Total amount of assessed value of real and personal property.
10. Total amount of taxes imposed by By-laws of the Municipality.
11. Total amount of taxes imposed by By-laws of the County Council.
12. Total amount of taxes imposed by By-laws of any Provisional County Council.
13. Total amount of Lunatic Asylum or other Provincial tax.
14. Total amount of all taxes as aforesaid.
15. Total amount of income collected or to be collected from assessed taxes for the use of the Municipality.
16. Total amount of income from licenses.
17. Total amount of income from public works.
18. Total amount of income from shares in incorporated Companies.
19. Total amount of income from all other sources.
20. Total amount of income from all sources.
21. Total expenditure on account of roads and bridges.
22. Total expenditure on account of other public works and property.
23. Total expenditure on account of stock held in any incorporated Company.
24. Total expenditure on account of schools and education, exclusive of School Trustees rates.
25. Total expenditure on account of the support of the poor or charitable purposes.
26. Total expenditure on account of Debentures and interest thereon.
27. Total gross expenditure on account of Administration of Justice in all its branches.
28. Amount received from Government on account of Administration of Justice.
29. Total nett expenditure on account of Administration of Justice.
30. Total expenditure on account of salaries, and the expenses of Municipal Government.
31. Total expenditure on all other accounts.
32. Total expenditure of all kinds.
33. Total amount of liabilities secured by Debentures.
34. Total amount of liabilities unsecured.
35. Total liabilities of all kinds.

36. Total value of real property belonging to Municipality.
37. Total value of stock in incorporated Companies owned by Municipality.
38. Total value of debts due to Municipality.
39. Total amount of arrears of taxes.
40. Balance in hands of Treasurer.
41. All other property owned by Municipality.
42. Total assets.

N. B.—Columns 2 to 9 are the headings of the different columns in the Assessment Rolls, and will vary according to the form of the Assessment Rolls required by Law.

Schedule A to 16 V. c. 168.

SCHEDULE C *Referred to in section 29.*

1. The number of acres of land originally granted and date thereof.
2. The number of acres sold, rate per acre and amount.
3. Amount of money received, how and where invested.
4. What amount still due on original sales.
5. The amount of capital producing income, and amount of capital expended without producing income, up to the 31st December, of the then last year.
6. The amount of income for the then last year, from what sources, amount expended and for what purposes, in detail.

Schedule B to 16 V. c. 168.

C A P X X X I V .

An Act respecting Patents for Inventions.

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

INTERPRETATION.

Interpretation. 1. In this Chapter, the expressions "useful art, machine, manufacture or composition of matter," include any such thing herein referred to, whether it be made by hand or by machinery or by both of those means ;—The word "Patent" means Letters Patent issued under this chapter or any other law, for securing to the grantee the exclusive use and benefit of invention or discovery ;—The expression "Foreign Country" includes any country not under the British Dominion and subject to the Crown thereof. 12 V. c. 24, s. 20.

WHO MAY OBTAIN A PATENT, AND HOW.

Applications to be made to Minister of Agriculture, &c. 2. The Minister of Agriculture shall receive all applications, drawings, descriptions, specifications and models for or relating to Patents for inventions in this Province, and shall keep the records thereof. 20 V. c. 32, s. 4.

Who may obtain a patent. 3. Any person being a subject of Her Majesty, and resident in this Province, having discovered or invented—any new and useful art, machine, manufacture, or composition of matter,—or any new and useful improvement on any art, machine, manufacture, or composition of matter,—the same not being known or used in this Province by others before his discovery or invention thereof, and not being at the time of the application for a Patent in public use or on sale in this Province with his consent or allowance as the inventor or discoverer thereof,—and desiring to obtain an exclusive property therein,—may apply by petition, in the manner provided by this chapter to the Governor of this Province, expressing such desire :

Governor to grant patent, &c. 2. And the Governor, on due proceedings being had as by this chapter directed, shall grant such Patent, which shall be good and available to the said grantee, his heirs, lawful representatives or assigns, for the period of fourteen years from the granting of the same, after the Patent has been recorded in the manner directed by this chapter,—and upon the assignment of the same previous to the grant aforesaid, for the same period, after such assignment has been recorded in the office of the Secretary of the Province. 12 V. c. 24, s. 1, as amended by 14, 15 V. c. 79, s. 13.

Patents for designs and works of art. 4. Any subject of Her Majesty being an inhabitant of this Province as aforesaid, who, by his industry, genius, efforts, and expense,

expense, has invented or produced—any new or original design for a manufacture, whether of any metal or mixed metals, or other material or materials,—or any new and original design for the printing of woollen, silk, cotton or other fabrics,—or any new or original design for a bust, statue, or *bas relief*, or composition in *alto* or *basso relievo*,—or any new or original impression or ornament, or to be placed on any article of manufacture,—the same being formed in marble or other material,—or any new and useful pattern or print or picture to be either worked into or worked on, or printed or painted or cast, or otherwise fixed on any article of manufacture,—not known or used by others before his invention or production thereof, and prior to the time of his application for a Patent therefor,—and who desires to obtain an exclusive property or right therein, to make, use, sell and vend the same or copies of the same to others, to be by them made, used, sold or vended,—may make application in writing, by petition to the Governor therefor, expressing such desire ;

And the Governor, on due proceedings had as by this chapter provided, may grant a Patent therefor as in the case of an application for a Patent ;

Patent may issue.

The duration of the said Patent shall be limited to fourteen years from the grant of the same, and all the regulations and provisions in this chapter for the obtaining or protection of Patents, shall apply to applications for and to Patents granted under this section. 12 V. c. 24, s. 13,—and 14, 15 V. c. 79, s. 3.

Patent limited to 14 years.

5. An original and true Inventor shall not be deprived of the right to a Patent for his invention, by reason of his having previously taken out a Patent therefor in a foreign country, and of the same having been published at any time within six months next preceding the filing of his specification and drawing, as required by this chapter. 12 V. c. 24, s. 4.

Patent taken out in a foreign country not to prevent one issuing here.

6. Every Inventor, before he can receive a Patent, shall make a solemn declaration that he verily believes that he is the true inventor or discoverer of the art, machine or improvement for which he solicits a Patent :

Inventor, before receiving patent, to make a declaration.

2. The said declaration may be made before any Justice of the Peace in this Province,—but when the applicant is not for the time being residing in the Province, the declaration shall be made before any Minister Plenipotentiary, *Chargé d'Affaires*, Consul or Agent, holding commission under the Government of Great Britain, or any Notary Public of the Country in which such applicant happens to be at the time of making the same. 12 V. c. 24, s. 14,—and 14, 15 V. c. 79, s. 5—parts.

Declaration before whom made.

- 7.** The Inventor shall deliver a written description or specification in duplicate of his Invention or Improvement, and of the manner or process of compounding the same, in such full, clear and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound and use the same :
- 2.** In the case of any machine, he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions :
- 3.** He shall accompany the whole with drawings and written references made in duplicate, where the nature of the case admits of drawings, or with specimens of the ingredients, or of the composition of matter, sufficient in quantity for the purpose of experiment ;
- 4.** The said description or specification, signed by himself, and attested by two witnesses, shall be filed in the office of the Minister of Agriculture, and certified copies thereof shall be competent evidence in all Courts where any matter or thing touching Patent Right, shall come in question ;
- 5.** The applicant for a Patent shall be held to furnish duplicate drawings, whenever the case admits of drawings, one of which shall be deposited in the Office of the Minister of Agriculture, and the other shall be annexed to the Patent, and considered a part of the specification thereof,—And a copy of the specification shall be in all cases annexed to the Patent. 14 V. c. 24, s. 6—part.
- 6.** The inventor shall moreover deliver a model of the machine by him invented (if the Patent be for a machine), provided the Minister of Agriculture deems such model to be necessary. 14, 15 V. c. 79, s. 5.
- 8.** All Patents granted under this Chapter shall recite briefly the substance of the Petition upon which they are granted, and shall contain a short description of the invention or discovery for which they are granted, referring for a fuller description thereof, and for more ample details, to the specification,---and shall grant to the Petitioner, his assigns and legal representatives, for the period of fourteen years from the granting of the same, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery. 14, 15 V. c. 79, s. 3—part.
- 9.** All such Patents shall, before the same are presented to the Governor for his signature, and before the Great Seal of the Province is thereunto affixed, be examined by Her Majesty's Attorney

Inventor to deliver a written description in duplicate of his invention, &c.

Principle to be explained.

Drawings, &c., in duplicate to accompany the whole, &c

To be filed, (signed and attested) in office of Minister of agriculture.

Where duplicate drawings shall be deposited.

Model to be delivered, &c.

What patents shall contain.

Limitation of patent.

Patents to be examined by law officers of the Crown.

are presented
Great Seal of
Her Majesty's
Attorney

Attorney General or Solicitor General for Upper or Lower Canada, who if he finds them conformable to Law, shall certify accordingly, and they shall then be presented to the Governor for his signature, and the Great Seal of the Province shall be thereunto affixed after they have been signed by him, and they shall be good and available to the Grantee, after they have been recorded in a Book to be kept for that purpose in the office of the Minister of Agriculture, and shall, when so recorded, be delivered by the proper officer to the Patentee or his order. 14, 15 V. c. 79, s. 3—*part.*

Great seal to be affixed;

To be recorded in the office of the Minister of agriculture.

Patents for inventions brought by Canadians from Foreign Countries.

10. The privileges, clauses, provisions, powers and legal remedies intended and mentioned by this Chapter, and which are secured to, imposed upon, and apply to the inventor and discoverer of any new and useful art, machine, manufacture, or composition of matter, for which he may make application for a Patent—shall extend to and include any Subject of Her Majesty, being an inhabitant of this Province, who in his or her travels in any foreign country has discovered or obtained a knowledge of, and is desirous of introducing in this Province, any new and useful art, machine, manufacture, or composition of matter, not known or not in use in this Province, before his application for a Patent for the same :

Privileges extended to persons bringing inventions from abroad.

2. Except nevertheless, that nothing in this Section shall extend to inventions or discoveries of any new and useful art, machine, manufacture, or composition of matter, made, discovered or used in the United States of America, or in any part of Her Majesty's Dominions in Europe or America, or shall prevent the free importation thereof into this Province, for sale by any person or persons, or for their use or otherwise, from the United States or from Her Majesty's said Dominions. 14, 15 V. c. 79, s. 11.

Exceptions.

11. The person so desirous of introducing into this Province any invention, art, machine, manufacture, or composition of matter, which he has discovered or obtained a knowledge of in any foreign country, shall, previous to obtaining a Patent for the same, make a solemn declaration, in the manner prescribed in this Chapter as to inventors and discoverers, that he believes himself to be the first introducer or publisher of such invention, art, machine, manufacture, or composition of matter in this Province, and that he discovered or obtained a knowledge thereof while on his travels in some foreign country not being one of the United States of America or any of Her Majesty's Dominions in Europe or America. 14, 15 V. c. 79, s. 12.

Applicant for such patent to make a solemn declaration.

ASSIGNMENT OF PATENTS.

Patents assign-
able.

12. Every Patent, whensoever issued, shall be assignable in law either as to the whole interest or any undivided part thereof, by an instrument in writing, which assignment (and also every grant and conveyance of the exclusive right under any Patent to make and use, and to grant to others to make and use, the thing patented, within and throughout this Province,) shall be recorded in the Office of the Minister of Agriculture within two months from the execution thereof. V. c. 24, s. 5,—and 14, 15 V. c. 79 s. 6.

Assignment to
be recorded.

Patents may
issue to the
assignee of
the inventor,
&c.

13. Every Patent may be made and issued to the Assignee of the inventor or discoverer, the assignment thereof being first recorded as aforesaid, and the application therefor being duly made, and specifications duly and solemnly declared by the said inventor. 12 V. c. 24, s. 6—part.

PATENT TO REPRESENTATIVES OF DECEASED INVENTOR.

In case of
death of in-
ventor, to
whom patent
may issue.

14. When any Subject of Her Majesty being an inhabitant of this Province as aforesaid, hath made any new invention, discovery or improvement, on account of which a Patent might, by virtue of this chapter, be granted, and such person dies before any Patent is granted therefor,—the right of applying for and obtaining such Patent shall devolve on the Executor or Administrator of such person, in trust for the legal representative in any other case,—in as full and ample a manner, and under the same conditions, limitations and restrictions, as the same was held or might have been claimed or enjoyed by the deceased in his lifetime;—And when the application is made by such executor, administrator or representative, the declaration required to be made and taken shall be so varied as to be applicable to him. 12 V. c. 24, s. 3.

INTERFERING APPLICATIONS FOR A PATENT.

Arbitration
in case of more
than one ap-
plicant.

15. In cases of interfering applications for any Patent, the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Minister of Agriculture, or by his Deputy or the person appointed to perform the duty of that office;—And the decision or award of such Arbitrators, or any two of them, delivered to the Minister of Agriculture in writing, and subscribed by them, or any two of them, shall be final as far as respects the granting of the Patent:

The same.

2. If either of the applicants refuses or fails to choose an Arbitrator, when required so to do by the Minister of Agriculture, the Patent shall issue to the opposite party;—And when there are more than two interfering applicants, and the parties applying do

do not all unite in appointing three Arbitrators, the Minister of Agriculture or his Deputy, or person appointed to perform the duty of that office, may appoint the three Arbitrators for the purposes aforesaid. 14, 15 V. c. 79, s. 9.

EXTENSION OF THE TERM OF A PATENT.

5 16. Whenever any Patentee desires an extension of his Patent beyond the term of its limitation, he may apply therefor in writing to the Governor, setting forth the grounds thereof, and causing the notice of such application to be published three times each in the *Canada Gazette*, and in two other Newspapers published respectively in the English and French languages in that section of the Province in which he resides, and such notice shall mention also the time of the said application, so that any person may appear and show cause why the extension should not be granted :

Proceedings in case patentee desires an extension of his patent.

15 2. The President of the Executive Council, the Attorney General for that part of the Province in which the applicant resides, and the Inspector General, shall constitute a Board to hear and decide upon the said application and the objection thereto, if such there be, and shall sit for that purpose at the time designated in the published notice thereof, at the office of the Minister of Agriculture where the Seat of the Provincial Government then is ;---and a true statement on oath by the Patentee shall be then and there submitted to the said Board, of the ascertained value of the invention, and of the receipts and expenditure in detail, exhibiting a true and faithful account of the loss or profit in any manner accruing to him from the same :

Board to decide upon applications.

How constituted.

3. If upon a hearing of the matter it appears to the Board, (having due regard to the public interest therein), that the said term ought to be extended, by reason of the Patentee, without fault on his part, having failed to obtain from the use and sale of his invention a reasonable remuneration for the time, ingenuity and expense bestowed thereon, and the introduction thereof into use,---the said Patent shall be renewed and extended by making thereon a certificate by the said Board of such extension for the term of seven years from and after the expiration of the first term, which certificate, with a certificate of the judgment and opinion of the said Board, shall be entered in the Office of the Minister of Agriculture, and the said Patent shall thereupon have the same effect in law as if it had been originally granted for the term of twenty-one years ;---And the benefit of such renewal shall extend to Assignees and Grantees of the right to use the thing patented, to the extent of their respective interest therein ;

Hearing.

Patent may be renewed and extended.

Renewal to extend to assignees.

4. But no extension of a Patent shall be granted after the expiration of the term sought to be extended, nor unless the petition or application therefor is presented six calendar

Proviso.

calendar months at the least before the expiration of such term.
12 V. c. 24, s. 11.

AMENDING PATENTS.

Patent may be amended.

17. Whenever any Patent, whensoever granted, is inoperative or invalid by reason of a defective or insufficient description or specification,—then, if the error has arisen from inadvertence, accident or mistake, and without any fraudulent or deceptive intention, the Patentee may surrender such Patent and obtain a new Patent to be issued to him for the same invention for the residue of the unexpired period of the original Patent, in accordance with the Patentee's corrected description and specification :

In case of patentee's death, the right to vest in executor, &c.

2. In case of the Patentee's death or of any assignment by him made of the original Patent, a similar right shall vest in his executor, administrator or legal representative ;

Re-issued patent to have the same effect as the original one.

3. The Patent so re-issued, together with the corrected description and specification thereof, shall have the same effect and operation in law on the trial of all actions thereafter commenced for causes subsequently accruing, as if the same had been originally filed in such corrected form before the issuing of the original Patent. 12 V. c. 24, s. 7.

Disclaiming part of an Invention.

Patentee may disclaim part of the invention claimed by mistake.

18. Whenever, by mistake, accident or inadvertence, and without any wilful default or intent to defraud or mislead the public, any Patentee has made his specification of claim too broad, claiming more than that of which he was the original or first inventor,—some material and substantial part of the thing patented being truly and justly his own,—or has in his specification claimed to be the original and first inventor or discoverer, of any material or substantial part of the thing patented, of which he was not the first and original inventor, and which he has no legal or just right to claim,—in every such case the said Patentee, his executor, administrator, legal representative, or assignee, whether of the whole or of a fractional interest thereof, may make disclaimer of such parts as he does not claim to hold by virtue of the Patent or assignment thereof, stating in the said disclaimer the extent of his interest in such Patent :

Disclaimer to be in writing.

2. Such disclaimer shall be in writing, attested by one witness and recorded in the Office of the Minister of Agriculture, and shall be thereafter taken and considered as part of the original specification, to the extent of the interest possessed in the Patent or right secured thereby by the disclaimant or by those claiming by or under him subsequent to the entry thereof :

3. Such disclaimer shall not affect any action pending at the time of its entry, except so far as relates to the question of unreasonable neglect or delay in filing the same ; Not to affect pending cases.
4. The Patent shall be deemed good and valid for so much of the invention or discovery as is truly and *bonâ fide* the disclaimant's own, or is not disclaimed, provided it is a material and substantial part of the thing patented, and is definitely distinguished from other parts so claimed without right as aforesaid ; For what parts the patents shall be good.
5. The Patentee, his executor, administrator or legal representative or assignee, whether of the whole or a fractional interest therein as aforesaid, may maintain a suit at law or in equity on such Patent for any infringement of so much of the invention or discovery as is *bonâ fide* his own as aforesaid, notwithstanding such disclaimer or larger specification as aforesaid ;—But in case of judgment on verdict in his favour, he shall not be entitled to recover costs against the defendant, unless he has entered as aforesaid in the Office of the Minister of Agriculture, the said disclaimer of all that part of the thing patented so claimed without right ; And no person bringing such suit shall be entitled to the benefit of this section who has unreasonably neglected or delayed to enter in the said Office the disclaimer as aforesaid. 12 V. c. 24, s. 8. Patentee may maintain a suit for infringement of such part.
As to costs, &c.

Amending Specification, Drawings, &c., to be amended, or filing new ones.

19. Whenever any application is made to the Governor for any addition of a newly discovered improvement to be made to an existing Patent,—or whenever a Patent is returned for correction and re-issue,—the specification of claim annexed to such Patent shall be subject to revision and restriction in the same manner as original applications for Patents ;—And such improvement shall not be granted in the one case, nor the re-issue allowed in the other case, until the applicant has entered a disclaimer or altered his specification of claim in accordance with the revision or restriction thereon : 12 V. c. 24 s. 9. Specification of claims annexed to patents to be also revised.
2. Whenever a Patent is returned for correction and re-issued, and the Patentee claims several Patents to be issued for distinct and separate parts of the thing patented, the same shall be granted in the same manner as original Patents ; Several patents may issue in place of one, &c.
3. But no addition of an improvement shall be made to any Patent theretofore granted, nor shall any new Patent be issued for an improvement made in any machine, manufacture or process, to the original inventor, assignee or possessor of a Patent therefor, nor shall any disclaimer be admitted to entry—until a duplicate model and drawing of the thing originally intended, verified as aforesaid, has been deposited in the proper Office therefor ; No alteration to be made in any patent, until duplicate drawing, &c. is filed.

In case model, &c., is lost, another to be deposited.

4. Nor shall any Patent be granted for an invention, improvement or discovery, the model or drawing of which has been lost, until another model and drawing has been in like manner deposited. 12 V. c. 24, s. 10.

REPEAL OF PATENTS ON SCIRE FACIAS.

Exemplification of the Patent may be obtained and filed.

20. Any person desiring to impeach any Patent, (whether issued under this chapter or under any Act of this Province) as having been fraudulently or surreptitiously obtained, or issued improvidently or upon false suggestion, may obtain an exemplification under the Great Seal of this Province, of such Patent, and of the petition or application therefor, and of the drawings and specifications thereunto relating,—and may have the same filed in the office of the Prothonotary or Clerk of the Superior Court for Lower Canada, or of the Court of Queen's Bench or Common Pleas for Upper Canada, according to the section of the Province in which such repeal is sought :

Writ of scire facias may then issue.

2. The Patent, the petition or application, drawing and specification aforesaid, so exemplified, shall thereupon be considered and held by the Court as remaining of record therein, so that a Writ of *scire facias*, under the seal of the Court may issue grounded upon the said record, for the purpose of repealing such Patent for legal cause as aforesaid, if upon the proceedings had upon the said Writ of *scire facias*, according to the law and practice of the Court of Queen's Bench in England, and under the provisions of this chapter, the Patent so sought to be repealed, is adjudged and declared void ;

Repeal of Patent.

To be entered on the enrolment.

3. A certificate of such judgment shall, at the request of any person or party, be entered upon the margin of the enrolment of such Patent, in the Office of the *Minister of Agriculture*, whereupon the said Patent shall be considered to be cancelled and made void from the entry thereof ;

Limitation of time for issuing such writ.

4. But no such *scire facias* shall issue or proceedings thereon be had, unless the Writ issues and is returned into Court in a term of the Court, within two years after the grant of the said Letters Patent, or in the term or session of the Court next after the said two years, and not afterwards. 12 V. c. 24, s. 17.

RIGHTS OF PATENTEES AND OTHERS AS TO THINGS PATENTED.

Patent may be granted for the improvement only.

21. Any person who has discovered an improvement in any machine or composition of matter which has been patented, and has obtained a Patent for such improvement, shall not be at liberty to make, use or vend the original invention, but the improvement only ;—nor shall the first inventor be at liberty to use the improvement : And simply changing the form or the proportion of any machine or composition in any degree, shall not be deemed a discovery. 14, 15 V. c. 79, s. 4.

22. Every person, or corporation established in this Province, having purchased, constructed, invented or discovered, as aforesaid, any new machine, manufacture, or composition of matter, prior to the application for a Patent therefor by a person claiming to be the inventor or discoverer thereof,—shall possess the right to use and vend to others to be used, the specific machine, manufacture, or composition of matter, so made, purchased, or introduced, without liability therefor to the Patentee or any other person interested in such invention ;—And no Patent shall be held to be invalid by reason of such purchase, sale or use, prior to the application for such Patent as aforesaid, except on proof of abandonment of such invention to the public, or that such purchase, sale or prior use existed for more than one year prior to such application for a Patent. 12 V. c. 24, 15 s. 12.

Persons purchasing a machine, prior to the application for a patent therefor, shall possess the right to use and sell.

23. If any person makes or manufactures for sale any article or composition so invented, or makes or manufactures or makes use of any instrument or machinery so invented or specified,—the exclusive right of which has been secured to any person by Patent,—without the consent of the Patentee, his assigns or other lawful representatives, first obtained in writing,—the person so infringing such Patent shall be liable to an action for the same, in which, besides such damages as may be awarded by the Jury, the party injured shall also recover treble costs, to be taxed according to the course and practice of the Court in which the action is brought. 14, 15 V. c. 79, s. 7.

Parties infringing patents, to be liable to an action, &c.

Treble costs.

24. In any action for damages for making, using or selling the thing whereof the exclusive right is secured by any Patent whenever granted, the issue shall be tried by a jury, and if a verdict is rendered for the Plaintiff, the Court may render judgment on such verdict, to the amount found by such verdict, as the actual damages sustained by the Plaintiff, with treble costs,—And such judgment shall be enforced and recovered in the same manner and by the same proceedings at law, as are used and in practice in that part of this Province in which the action is brought as to any other judgment for damages. 12 V. c. 24, s. 2—part.

Action for damages to be tried by a Jury.

Judgment may be rendered, with treble costs.

25. Whenever it satisfactorily appears that the Patentee at the time of making his application for the Patent, believed himself to be the first inventor or discoverer of the thing patented, the Patent shall not be held to be void on account of the invention or discovery or part thereof, having been before known or used in a foreign country, if it does not appear that some or any material or substantial part thereof, had before been patented or described in any printed publication. 12 V. c. 24, s. 2—part.

Patent not to be void in certain cases, though the invention has been used before in a foreign country.

As to costs in certain cases.

26. And whenever the Plaintiff fails to sustain his action, on the ground that in his specification of claim is embraced more than that of which he was the first inventor or discoverer,—or if it appears that the Defendant had used or violated any part of the invention, justly and truly specified and claimed as new, the Court may adjudge and award, as to costs, as appears to be just and equitable. 12 V. c. 24, s. 2—part.

Special defence.

27. But a Defendant in any such action, may specially plead any matter of defence thereto, specified in this chapter or in any former law under which the Patent was granted: 12 V. 10 c. 24, s. 2—part.

Patent to be declared void in certain cases by judgment.

2. And if at the trial in any such action, it is made apparent, to the satisfaction of the Court (the defendant having specially pleaded the same) that the specification filed by the Patentee does not contain the whole truth relative to the invention or discovery to which it refers,—or that it contains more than is necessary to produce the described effect, (such concealment or addition fully appearing to have been made for the purpose of deceiving the public,)—or that the thing thus secured by Patent, was not originally discovered by the Patentee or party claiming to be the Inventor or Discoverer in the specification referred to in the Patent, but had been in use, or had been described in some public work, anterior to the supposed discovery of the Patentee,—or that he had surreptitiously obtained a Patent for the invention or discovery of another person,—in either of the said cases, judgment shall be rendered for the defendant, with costs, and the Patent shall be declared void. 14, 15 V. c. 79, s. 8.

Costs.

PATENTED ARTICLES TO BE MARKED AS SUCH.

Date of patent to be marked on each article offered for sale.

28. Every Patentee and assignee of a Patent granted after the thirtieth day of May, 1849, shall stamp, or engrave, on each article vended or offered for sale, the date of the Patent thereof; And any person patented or assigned neglecting so to do shall be deemed to have committed a misdemeanor, and shall be liable therefor to the same penalties as are provided in the next following section. 12 V. c. 24, s. 16.

Penalties on persons for imitating the name of any patentee, &c.

29. If any person writes, paints, prints, moulds, casts, carves, engraves or stamps upon any thing made, used or sold by him, for the sole making or selling of which he has not obtained a Patent, the name, or any imitation of the name of any Patentee for the sole making or vending of such thing, without the consent in writing of such Patentee or of his assigns or legal representatives,—or if any person, upon any such thing not purchased from the Patentee or from his assignee or representative or from a vendee, or not having his license or consent in writing,—writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise makes or affixes the word or words "Patent,"

"Patent," "Letters Patent," "by the Queen's Patent," "Patented," or any word or words of like kind, meaning or import, with the view or intent of imitating or counterfeiting the stamp, mark or other device of the Patentee,-- or affixes the same, or any word, stamp or device of like import on any unpatented article, for the purpose of deceiving the public,--he shall be deemed to have committed a misdemeanor, and shall be punished by fine, or by imprisonment or by both fine and imprisonment, at the discretion of the Court; but the fine shall not exceed fifty pounds currency in amount, and the imprisonment shall not exceed three months in duration. 12 V. c. 24, s. 15.

FEEs UNDER THIS CHAPTER.

30. Every Applicant presenting a petition and signifying his desire to obtain a Patent under this chapter, shall pay into the hands of the Minister of Agriculture, or his deputy, or person appointed to perform the duty of that office, the fee of five pounds, which shall be in full of all fees payable by him with respect to such Patent, and for all services by what Public Officer soever performed, in relation thereto, whether by such Minister of Agriculture, or any other :

2. Except that for every copy or exemplification required at the office of the said Minister, of the enrolment of any such Patent, or of the specification or other document relating thereto, the person obtaining such copy shall pay at the rate of one shilling for every folio of seventy-two words, and a further sum of ten shillings for affixing the Great Seal to the exemplification of any such Patent ; And for every copy of any drawing relating to such Patent, the party entitled to and obtaining the same, shall pay such sum as the Minister of Agriculture, or his deputy, or person performing his duty as aforesaid, considers a reasonable compensation for the time and labor expended thereon. 14, 15 V. c. 79, s. 10.

PATENTS UNDER FORMER ACTS.

31. All Patents lawfully issued under any Act of the Parliament of Upper or of Lower Canada, then in force, but now repealed, shall remain in force and be of the same effect, as if the Act under which they were issued had not been repealed, but subject to the provisions of this Chapter, all the enactments whereof shall apply to them. 14, 15 V. c. 79, ss. 2, 13.

32. All Patents granted after the thirtieth day of May, 1849, whether under the provisions of the said Acts of Upper and of Lower Canada, or of this Chapter, shall extend and be privileged throughout this Province of Canada. 12 V. c. 24, s. 18—part.

Patents issued during a certain period to extend to all Canada, from 10 June 1857 :

Effect of such Patent :

Exception as to persons using the invention before the said day.

As to Patents extended to the whole Province, on application under 14, 15 V. c. 79, s. 1.

Proviso.

33. Every Patent for an invention issued after the Union of Upper and Lower Canada, but before the said thirtieth day of May, 1849, shall extend and apply and shall be held to have extended and applied upon and since the tenth day of June, 1857, to and throughout the whole Province of Canada, and all the provisos, conditions, reservations and restrictions contained in this chapter and applicable to Patents generally, shall apply to such Patents, and to all matters incident thereto ;—And any such Patent shall, as regards that section of the Province for which it was not originally granted, convey to the holder of such Patent all the privileges conferred by this chapter, for and during the remainder of the term for which such Patent was originally granted, and shall be renewable for the whole Province for the period and under the conditions prescribed in the *sixteenth* section of this chapter :

2. Except always, that every person or corporation in that section of the Province to which such Patent extends solely by virtue of this section, who had purchased, constructed or used within such section of the Province, prior to the said tenth day of June 1857, any machine, manufacture or composition of matter included in such Patent, shall possess the right to use and vend to others to be used, the specific machine, manufacture or composition of matter so actually purchased, constructed or used by him before the day last aforesaid without liability to the Patentee or other person interested in the invention for which such Patent was granted, as regards such section of the Province. 20 V. c. 33, s. 1.

34. Whenever any party holding a Patent for any such invention, issued before the Union of Upper and Lower Canada, under the authority of any Act of either of the said former Provinces, has, under the provisions of the first section of the Act 14, 15 V. c. 79, obtained a Patent available in that section of the Province not embraced by the Patent first issued as aforesaid, such subsequent Patent shall be subject to all the provisos, conditions, reservations and restrictions mentioned and contained in this Chapter, and shall, as regards the section of the Province, to which it extends the privileges of the grantee, secure to the grantee all the privileges conferred by this Chapter, for and during the period of fourteen years,—and shall, for such section of the Province as aforesaid, be renewable for the period and under the conditions prescribed in the *sixteenth* section of this Chapter :

2. But nothing in this section shall be construed to extend the period limited by any Patent issued under either of the said Acts of the late Provinces of Upper or Lower Canada, within the section of the Province to which the Patent is thereby confined ;

3. And every person or corporation in that section of the Province to which such Patent extends solely by virtue of this section, who had purchased, constructed or used, within such section of the Province as last aforesaid, any machine, 5 manufacture or composition of matter, included in such Patent, prior to the application therefor by the party entitled thereto, under the enactment referred to in this section, shall be held to possess the right to use and to vend to others to be used, the 10 specific machine, manufacture or composition of matter, so actually purchased, constructed or used by him before such application as aforesaid, without liability to the Patentee or other person interested in the invention for which Letters Patent have been obtained as aforesaid, for such section of the Province. 14, 15 V. c. 79, s. 1.

Saving rights
of persons
using the
invention
before the
extension.

C A P . X X X V .

An Act respecting the Militia.

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

- 1.** The Governor shall, by virtue of his Office, be Commander in Chief of the Provincial Militia. 18 V. c. 77 s. 2.
- 2.** The Provincial Militia shall be divided into two classes, Sedentary and Active. *Ibid*, s. 3.

SEDENTARY MILITIA.

- 3.** The Sedentary Militia shall consist of all the male inhabitants of the Province of the age of eighteen years or upwards and under sixty, not exempted or disqualified by law. *Ibid*, s. 4.

- 4.** The Sedentary Militiamen shall be divided into two classes, to be called respectively Service Men and Reserve men: the Service men shall be those of eighteen years of age and upwards, but under forty years, and the Reserve men shall be those of forty years of age and upwards, but under sixty years. *Ibid*, s. 5.

- 5.** In time of peace, no actual service or drill shall be required of the Sedentary Militia, but they shall be carefully enrolled from time to time;—And the Service men not exempted from muster, shall also assemble for muster annually, at such place and hour, in such manner and for such purposes, as the Commanding Officer of each battalion may direct with respect to each company therein; the muster day being in Lower Canada the twenty-ninth of June, or if that day fall on a Sunday, then the next day thereafter,—and in Upper Canada the Queen's Birthday, or if that day fall on a Sunday, then the day next thereafter. *Ibid*, s. 6, as amended by 19, 20 V. c. 44, s. 5.

- 6.** The Commander in Chief may, by any Militia General Order, dispense with the annual general muster of the Sedentary Militia in either Section of the Province, either in any particular year or until further order, and may in like manner again direct such muster to be held, if he sees fit;—and any such order shall have the force of law according to the terms thereof. 19, 20 V. c. 44, s. 3.

- 7.** The following persons only between the ages of eighteen and sixty as aforesaid, shall be exempt from enrolment and from actual service in any case :

The

- The Judges of the Superior Courts of Law or Equity in Upper and Lower Canada ;
- The Judge of the Court of Vice-Admiralty ;
- The Judges of the Circuit and County Courts ;
- 5 The Clergy and Ministers of all Religious denominations ;
- The Professors in any College or University, and all teachers in religious orders ;
- The Warden, Keepers and Guards of the Provincial Penitentiary.
- 10 And the following, though enrolled, shall be exempt from attending muster and from actual service at any time except in case of war, invasion or insurrection :
- The Reserve Men ;
- The Members of the Executive and Legislative Councils ;
- 15 The Members of the Legislative Assembly ;
- The Officers of the said Councils and Assembly respectively ;
- The Attorneys and Solicitors General ;
- The Provincial Secretary and Assistant Secretaries ;
- 20 All Civil Officers appointed to any Civil Office in this Province under the Great Seal ;
- All persons lawfully authorized to practise Physic or Surgery ;
- All Advocates, Barristers, Solicitors and Attorneys ;
- Notaries in Lower Canada ;
- Half-pay and Retired Officers of Her Majesty's Army or Navy ;
- 25 Postmasters and Mail Carriers ;
- Seafaring Men actually employed in their calling ;
- Masters of Public and Common Schools actually engaged in teaching ;
- Ferry-men ;

One Miller for each run of stones in every Grist Mill ;

Keepers of public Toll-Gates ;

Lock Masters and Labourers employed in attending to Locks and Bridges on Public Canals ;

The Engine Drivers, Conductors and Switchmen connected with the several Railways actually in use in this Province ;

Members of Fire Companies and of Hook and Ladder Companies ;--or persons having served as such regularly during seven consecutive years, and having a certificate thereof from the proper Officer under chapter 12 V. c. 36 ;

Jailors, Constables and Officers of Courts of Justice, not being such solely by virtue of their being non-commissioned Officers of Militia ;

Students attending Seminaries, Colleges, Schools and Academies, who have been attending such at least six months previous to the time at which they claim such exemption ;

All persons disabled by bodily infirmity ;

All persons bearing Certificates from the Society of Quakers, Mennonists, and Tunkers, or any Inhabitant of this Province, of any Religious denomination, otherwise subject to Military duty in time of Peace, but who from the doctrines of his Religion is averse to bearing arms and refuses personal Military Service, shall be exempt therefrom.

Exceptions:

Exemption must be claimed.

But such exemption shall not prevent any person from serving or holding a Commission in the Militia, if he desires it and is not disabled by bodily infirmity :--And no person shall have the benefit of such exemption, unless he has, at least one month before he claims such benefit, filed his claim thereto with his affidavit made before some Magistrate of the facts on which he rests his claim, with the Commanding Officer of the Company within the limits whereof he resides ;--And whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant. 18 V. c. 77, s. 7, but including exemption under 12 V. c. 36, and 4, 5 V. c. 43.

Service men divided into two classes.

8. With a view to actual service in case of war, invasion or insurrection, the Service men shall be divided into two classes, to be called respectively, first class Service men and second class Service men ; the first class to consist of unmarried men and widowers without children, and the second class of married men and widowers with children. *Ibid*, s. 8.

9. When the Sedentary Militia are called out in case of war, invasion or insurrection, those first taken for actual service shall be volunteers from the Service men, then the first class Service men, then the second class Service men, and lastly the Reserve men. *Ibid*, s. 9.

Order in which they shall be taken for actual service.

10. The Commander in Chief may from time to time, by any Militia General Order, divide Upper and Lower Canada respectively, into such number of Military Districts as he deems expedient, and to be designated as he sees fit ;--and may from time to time by any Militia General Order, alter such division of the Province into Military Districts, and increase or diminish the number thereof. *Ibid*, s. 10, as amended by 19, 20 V. c. 44, s. 1.

Commander in Chief to divide U. C. & L. C. into military districts and may alter the same.

11. The Commander in Chief may from time to time, by any Militia General Order, divide the Military Districts respectively into Regimental divisions, and the Regimental divisions into Battalion divisions, and may designate such divisions by such names or numbers as he sees fit. *Ibid*, s. 11.

Regimental and battalion divisions.

12. The Militiamen resident in each Battalion division shall form a Battalion of the Regiment of the Regimental divisions in which it lies ;--and all the Battalions in any Regimental division shall form the Regiment thereof. *Ibid*, s. 12.

What men shall form the regiments and battalions.

13. To each Military District a Colonel shall be appointed who shall command the Militia in such District, and to each Battalion a Lieutenant Colonel, and such number of Majors and Regimental Staff Officers as may be deemed necessary. *Ibid*, s. 13.

Officers of regiments and battalions

14. Each Lieutenant Colonel may, by any order made with the approval of the Colonel of the Military District, from time to time, divide his Battalion Division into Company divisions, each containing as nearly as may be conveniently practicable, not less than fifty nor more than seventy-five resident Service men ;--And the Militiamen resident within each Company division shall form a Company of the Battalion. *Ibid*, s. 14.

Company divisions to be formed.

15. All Militia divisions existing before the passing of the Act 18, V. c. 77, shall remain in force until altered as aforesaid, and such of them as are allowed to remain unaltered shall be held to have been made by the proper authority under this chapter, and for the purposes thereof. *Ibid*, s. 15.

Existing divisions to remain until altered.

16. To each Company of Militia there shall be appointed of Commissioned Officers, a Captain, a Lieutenant, and an Ensign ; and of non-Commissioned Officers, three Serjeants and three Corporals. *Ibid*, s. 16.

Officers and non-commissioned officers of companies.

Surgeons, &c.,
may be
appointed to
militia.

17. The Commander in Chief may appoint to all Militia Regiments, Companies or Corps, the proper number of Surgeons, Assistant Surgeons and Veterinary Surgeons. 19, 20 V. c. 44, s. 4.

Enrolment,
how to be
made by offi-
cers.

18. The enrolment of the Sedentary Militiamen shall be made in each Company division by the Captain thereof, with the assistance of the Officers and non-commissioned Officers of the Company;—And it shall be the duty of the Captain, and, under his orders, of the other Officers and non-commissioned Officers of the Company, by actual enquiry at each house in the Company division, and by every other means in their power, to make and keep at all times a correct Roll of the Company in such form as may be directed by the Adjutant General. 18 V. c. 77, s. 17.

Militiamen
bound to give
in their
names.

19. Each man liable under this Chapter to be enrolled in any Company, and not so enrolled, shall give in his name, age and place of residence, in writing, to the Captain or Officer commanding such Company, within twenty days after he becomes so liable, whether by the alteration of any Militia division, change of residence, or otherwise howsoever. *Ibid*, s. 20 18.

Rolls of com-
panies to be
made annu-
ally; also, re-
turns of bat-
talions.

20. The Officer commanding a Sedentary Company of the Militia shall, within twenty days after the annual muster day for such Company, make out a corrected Roll thereof, and transmit a certified copy thereof to the Officer commanding the Battalion, who, within forty days after such muster, shall forward a correct Return of the Battalion under his command to the Assistant Adjutant General of the Military District, to be laid before the Colonel commanding the same; and the said Return shall then be transmitted by the Assistant Adjutant General, under the orders of the said Colonel, to the Adjutant General at Head Quarters. *Ibid*, s. 19.

Company rolls
to be corrected
from time to
time.

Duty of house-
holders, &c.,
to give all in-
formation re-
quisite.

And of mili-
tiamen.

21. Each Company Roll shall be corrected from time to time as changes occur which affect it;—And every householder and resident in the Company division, and every Assessor, Town Clerk, or other Municipal Officer, shall be at all times bound to give to the Commanding Officer or any Officer or non-commissioned Officer of the Company, such information as may be required to make such corrections, and to answer all such questions as any of them may pertinently put to him for the purpose of obtaining such information:—And every Militiaman shall be bound to inform the Officer commanding the Company, in writing, of any change of residence or other circumstances affecting such Militiaman, by which the Roll of any Company is affected, whether such Militiaman comes into or leaves the Company division for which the Roll is made. *Ibid*, s. 20.

ACTIVE OR VOLUNTEER MILITIA COMPANIES.

22. The Active Militia of the Province in time of peace, shall consist of Volunteer Troops of Cavalry, field Batteries, foot Companies of Artillery, and Companies of Infantry armed as Riflemen, to be formed at places to be designated by the Commander in Chief, but except as herein provided the whole number shall not exceed sixteen Troops of Cavalry, seven field Batteries of Artillery, five foot Companies of Artillery, and fifty Companies of Riflemen, nor (with the same exception) shall the total of such Volunteer Corps exceed five thousand Officers and Men. *Ibid*, ss. 21 & 19,--20 V. c. 44, s. 2.

Volunteer companies to be formed; of what to consist.

Total limited.

23. Notwithstanding any limitation in the next preceding section of the number of Volunteer Companies or Corps, or of the number of men therein, the Commander in Chief may accept the services of any greater number of Volunteers, and may form them into Companies or Corps,--provided that no greater number of Volunteer Companies, Corps or men than that limited by the said section, shall receive pay or allowances except on actual service, in time of war or insurrection;--And the Volunteer Companies and Corps receiving pay shall be known as Class A, and those receiving no pay as Class B; And whenever the number of Companies or Corps or men in Class A falls short of that limited by the said section, the deficiency may be supplied by removing the proper number from Class B into Class A; But in all respects, except as to pay and allowances, the provisions of this chapter shall apply in like manner to the Volunteer Companies, Corps and men in both Classes. 19, 20 V. c. 44, s. 2.

Unpaid volunteers may be formed.

Unpaid volunteers may become paid corps, as vacancies occur.

Proviso.

24. Each Volunteer Troop of Cavalry, Company of Foot Artillery, or Company of Riflemen, shall consist of a Captain, a Lieutenant, a Cornet, Second Lieutenant or Ensign, three Serjeants, three Corporals, a Trumpeter or Bugler, and not exceeding forty-three Privates, except in Companies of Riflemen wherein the number of Privates may be any number from forty-three to seventy-five;--And each field Battery of Artillery shall consist of a Captain, two first Lieutenants, a Second Lieutenant, a Serjeant Major, three Serjeants, three Corporals, three Bombardiers, a Trumpeter, a Farriar, fifty-nine Gunners and Drivers, including Wheelers, Collarmaker and Shoeing-smith, fifty-six horses, exclusive of Officers' horses, and of four spare horses when the Battery is called into actual service. 18 V. c. 77, s. 22.

Force of volunteer companies respectively.

25. A Volunteer Marine Company may be formed at each of the following places,--Kingston, Cobourg, Toronto, Hamilton, Port Stanley, Dunville and Oakville: each Company to consist of a Captain, a Lieutenant and fifty men: and a Commodore of Provincial Marine may be appointed to command the whole and to rank as a Lieutenant Colonel of Militia;--Captains in

Volunteer marine companies may be formed at certain places.

the Provincial Marine shall rank as Majors in the Militia, and Lieutenants as Captains in the same. *Ibid*, s. 23.

How to be armed and drilled.

26. The said Marine Companies shall be armed in such manner as the Commander in Chief directs, and shall be trained and drilled as well to the use of small arms, as in the management of gun-boats and vessels, and the working of great guns on board vessels. *Ibid*, s. 24. 5

Volunteer company of engineers.

27. In each Militia District there may be formed a Volunteer Company of Engineers, to consist of a Captain, a Lieutenant, a Second Lieutenant, and such number of men not exceeding seventy-five, as the Governor may direct :--but such Companies shall not, be subject to drill or to service in time of peace. *Ibid*, s. 25. 10

On what authority companies may be formed and disbanded.

28. All Volunteer Companies shall be formed and may be disbanded by authority of the Commander in Chief, as may in his opinion best tend to further the purposes of this Chapter and the public good. *Ibid*, s. 26. 15

Arms, &c., of volunteer companies.

29. The arms and accoutrements of the Officers and men of the several Volunteer Companies, shall be such as the Commander in Chief from time to time directs, but of the best and most serviceable kind, without unnecessary ornament ;--Such arms and accoutrements shall be furnished to the non-commissioned officers and privates of the said Volunteer Corps at the expense of the Province, but shall always remain Provincial property, and the parties receiving them shall be accountable for them ;--And the Commander in Chief may direct such security as he thinks proper to be taken for the safekeeping in good order of such Arms and Accoutrements, and the re-delivery thereof to such Officer as may be appointed to receive them, whenever the Commander in Chief for any purpose directs such re-delivery. *Ibid*, s. 27. 20 25 30

To be furnished by the province, except to officers.

Security may be taken for safe keeping, &c.

Repairing of arms, &c.

30. The said arms and accoutrements shall be renewed and kept in repair at the cost of the Province, whenever such renewal or repair becomes necessary from wear in service or other cause than the fault or neglect of the person having charge thereof, in which last named case they shall be renewed or repaired by such person, or, if renewed or repaired at the cost of the Province, the cost may be recovered from such person as a debt due by him to the Crown. *Ibid*, s. 28. 35

By whom and where they shall be kept.

31. The arms and accoutrements of non-commissioned officers and men of Volunteer Companies shall be kept by them, except in cases where the Commander in Chief directs them to be kept in Armouries, as he may do ; in which case, if there be no Public Armoury in which he directs them to be kept, the Captain of the Company shall provide a proper place, and may be allowed annually a sum not exceeding five pounds for doing 40 45 50

doing and for taking care of such arms and accoutrements. *Ibid*, s. 29.

32. Commissioned officers of the said Companies shall furnish their own arms and accoutrements. *Ibid*, s. 30. Officers' arms.

33. The Arms and Accoutrements of the officers and men of such Volunteer Companies, and the Horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; nor shall any such horse be disposed of by any officer or man without leave of the Officer commanding the Company. *Ibid*, s. 31. Exemption of arms, horses, &c., from seizure.

34. The Volunteer Militia Companies shall be drilled and exercised at such time in each year and at such places as the Commander in Chief may from time to time appoint; the Volunteer Field Batteries being so drilled and exercised during twenty days in each year, of which twenty days ten shall be continuous, and the other Volunteer Corps once in each year during ten continuous days, (Sundays not reckoned in either case,) and the Companies under drill being encamped during the whole or any part of the period for drill, if the Commander in Chief sees fit. *Ibid*, s. 32. How volunteer companies shall be drilled and exercised.

35. The Adjutant General shall draw up, under the direction of the Commander in Chief, a code of instruction, drill and exercise for the said Volunteer Companies, based on that in use in Her Majesty's Regular Army, and each Commissioned Officer of a Volunteer Company shall be furnished with a copy, and shall be governed by the said code in drilling and exercising the corps to which he belongs. *Ibid*, s. 33. Adjutant Genl. to draw up code of instructions.

36. For each day on which they are so drilled, the officers and men of the said Volunteer Companies shall be paid by the Province the following sums: Volunteers to be paid while at drill;

Captains, per diem.....	£0 10 6	And at what rates.
Lieutenants, "	0 7 6	
Second do. Cornets or Ensigns.....	0 6 6	
Non-Commissioned Officers and Privates..	0 5 0	

37. and a further sum of five shillings per diem for each horse actually and necessarily present and used for such drill, whether belonging to officers or privates. *Ibid*, s. 34.

37. Nothing herein contained shall be construed to prevent any such Company from assembling or being ordered out by the Officer commanding it for drill or exercise, without receiving any pay therefor from the Province, according to any articles of engagement or regulations of such Company, previously approved by the Commander in Chief;—And any such articles, in so far as they are not inconsistent with this Chapter, shall Volunteers may be drilled at other times according to their articles of engagement.

shall be enforced, and the penalties which may be thereby imposed shall, whenever they are incurred, be recoverable in the manner hereinafter mentioned, by the person or officer designated for that purpose in such articles, to such uses as may be therein directed. *Ibid*, s. 35.

Ammunition for practice.

38. Sufficient ammunition for practice at drill shall be supplied to the Volunteer Companies at the expense of the Province, in such manner as the Commander in Chief may direct. *Ibid*, s. 36.

Pay of Serjeant-Major of artillery companies, &c.

39. Each Serjeant-Major of a Volunteer Field Battery of Artillery shall, on account of the great responsibility attached to the office, be paid by the Province at the rate of fifty pounds per annum ;--And competent persons shall be appointed by the Commander in Chief to drill the other Volunteer Companies, and shall be paid by the Province seven shillings and six pence currency per diem, when so employed. *Ibid*, s. 37.

Volunteers may be called out in aid of the civil power, and shall be paid in such cases by the municipality.

40. The said Volunteer Companies shall be liable to be called out in aid of the ordinary Civil Power in case of riot or other emergency requiring such services, and shall when so employed receive from the Municipality in which their services are required, the rates of pay above mentioned, and a further sum of two shillings and six pence per man per diem for additional expenses, and shall be also provided with proper lodging by such Municipality ;--And the said sums, and the value of such lodging if not furnished by the Municipality, may be recovered from it by the Captain of the Company, in his own name, and when received or recovered shall be paid over to the Officers and men entitled thereto. *Ibid*, s. 38.

How they may be so called out, and their duty in such cases.

41. It shall be the duty of the Captain or Officer commanding any such Volunteer Company to call out the same, or such portion thereof as is necessary, for the purpose of quelling any Riot, when thereunto required in writing by the Mayor, Warden or other Head of the Municipality in which such Riot takes place, or by any two Magistrates therein, and to obey such instructions as may be lawfully given him by any Magistrate in regard to the mode of quelling such Riot ;--And every Officer, non-commissioned Officer and man of such Company shall on every such occasion obey the orders of his Commanding Officer ;--And the Officers and men when called out shall, without any further or other appointment, and without taking any oath of office, be Special Constables, and shall act as such so long as they remain so called out. *Ibid*, s. 39.

To be sworn in as special constables

Exemptions in favor of volunteers.

42. The Officers, non-Commissioned Officers and men of Volunteer Companies, shall, while they continue such, be exempt from serving as Jurors or Constables ; And whenever they have served as such in one or more Volunteer Companies during

during a term of seven years, such exemption shall continue after the expiration of the said term. *Ibid*, s. 40.

43. No non-Commissioned Officer or Man of any Volunteer Company, shall, in any case, unless legally discharged, leave the same without giving at least one month's notice in writing to the Commanding Officer thereof of his intention so to do;— Nor shall he, at any time, leave the same contrary to the engagement contained in any articles of engagement he has signed; and the term of engagement shall not be less than five years. *Ibid*, ss. 41, 65.

Notice to be given before leaving any volunteer company.

Term of engagement.

44. The several Volunteer Companies shall be subject to inspection from time to time by Field Officers to be appointed by the Commander in Chief for that purpose, one for Upper and one for Lower Canada, who shall report fully to the Governor on the state of such corps and their arms, and act generally according to the instructions they receive from the Commander in Chief, and who shall be paid by the Province at the rate of four hundred pounds per annum each, and be reimbursed their travelling expenses. *Ibid*, s. 42.

Field officers to inspect volunteer companies.

GENERAL PROVISIONS.

45. All Commissions of Officers in the Provincial Militia shall be granted by the Commander in Chief and during pleasure. *Ibid*, s. 43.

Commissions, by whom granted.

46. All non-Commissioned Officers in the Provincial Militia, shall be appointed by the Officer commanding the Battalion to which they belong,—except in Volunteer Companies where they shall be appointed by the Captain thereof,—and shall in either case hold their rank during pleasure. *Ibid*, s. 44.

Non-commissioned officers.

47. No person shall be an Officer of Militia unless he is one of Her Majesty's subjects by birth or naturalization, nor if he is such subject by naturalization only, unless he has taken the oath of allegiance. *Ibid*, s. 45, explained by 19, 20 V. c. 44, s. 6.

Officers must be Her Majesty's subjects.

48. Commissions in the Provincial Militia and appointments of non-Commissioned Officers, existing immediately before the passing of the Act, 18 V. c. 77, shall remain in force, such Commissions being subject to be cancelled by the Commander in Chief, and such appointments by the Officer Commanding the Battalion:—But no person shall be bound to serve in the Provincial Militia in a lower grade than he has once held, unless he has resigned his commission or is reduced by sentence or order of some lawful Court or authority,—Nor shall any person who has been a non-Commissioned Officer in Her Majesty's Army, be bound to serve in the Militia in a lower grade

Existing commissions to remain until cancelled.

No person bound to serve in a lower grade than he has held.

grade than he held in the Army, unless he had been reduced as aforesaid. *Ibid*, s. 46.

Battalions embodied in 1837, 1838, 1846 & 1847. **49.** The next preceding section applies to and includes the Battalions embodied in the years one thousand eight hundred and thirty-seven, one thousand eight hundred and thirty-eight, one thousand eight hundred and forty-six, and one thousand eight hundred and forty-seven, in the Cities of Quebec and Montreal, and the said battalions are still lawfully embodied, and Commissions in them are valid under the said section: and the said Battalions are subject to all the provisions of this Chapter as Sedentary Militia, and may be called out as such by the Commander in Chief. 19, 20 V. c. 44, s. 7.

Adjutant General and Deputies. **Rank.** **Pay.** **50.** There shall be an Adjutant General of Militia for the Province, and two Deputy Adjutants General, one for Upper and the other for Lower Canada; the Adjutant General shall have the rank of Colonel in the Provincial Militia, and each of the Deputy Adjutants General the rank of Lieutenant Colonel therein, and they shall hold their Offices during pleasure: the Adjutant General shall be paid by the Province at the rate of seven hundred and fifty pounds, and each of the Deputy Adjutants General at the rate of five hundred pounds, per annum. 18 V. c. 77. s. 47.

Assistant Adjutants General. **Rank and duties.** **Pay.** **51.** There shall be in and for each Military District, an Assistant Adjutant General, who shall have the rank of Major in the Militia, and shall act under the orders of the Colonel commanding the District, and of the Adjutant General of the Province, in preparing, obtaining and transmitting all Militia returns and orders required or issued by the Adjutant General, and generally in assisting that Officer in the performance of his duties as regards such Military District. *Ibid*, s. 48.

52. Each Assistant Adjutant General shall, in time of peace, be paid by the Province for his services, at the rate of thirty pounds per annum. *Ibid*, s. 49.

Asst Quarter Master General. **53.** There shall be in and for each Military District an Assistant Quarter Master General, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his District, and to furnish such information on the subject as may be required by the Commander in Chief, in which duty the Officers of the Volunteer Engineer Corps shall assist him with the local information they acquire. *Ibid*, s. 50.

Militia offences, how punishable, in time of peace, without **54.** All contraventions of this chapter and of Regulations or Orders lawfully made or given under it, when the Militia or that portion thereof to which the offender belongs, is not called out for actual service, shall be punishable by penalties to be imposed

imposed by one or more Justices of the Peace, and in a summary manner as hereinafter provided, and in such cases Courts Martial shall not be held. *Ibid*, s. 51. Courts Martial.

CALLING OUT THE MILITIA.

- 55.** The Commander in Chief may call out the Militia or any part thereof, whenever it is in his opinion advisable so to do, by reason of war, invasion or insurrection, or imminent danger of any of them. *Ibid*, s. 52. Commander in chief may call out militia in certain cases.
- 56.** The Colonel commanding any Military District, or the Lieutenant Colonel commanding any Battalion division, may upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the Militia within his command, until the pleasure of the Commander in Chief is known. *Ibid*, s. 53. And Colonels or Lieutenant Colonels in their divisions until Governor's pleasure be known.
- 57.** The Militia so called out by their Colonel or Lieutenant Colonel, shall immediately obey all such orders as he may give, and march to such place within or without the division as he may direct. *Ibid*, s. 54. Militiamen bound to obey.
- 58.** When the Militia of any local division are called out, in case of war, insurrection or invasion, or imminent danger thereof, all Companies of Volunteers in such division shall be included in the order and shall obey the Officer issuing it. *Ibid*, s. 55. Volunteer companies to be included.
- 59.** When the whole Militia of the Province are called out, all the Volunteer Companies shall be included and shall immediately obey the orders they receive. *Ibid*, s. 56. And so when the whole militia is called out.
- 60.** Each Sedentary Militiaman called out for actual service shall attend at such time and place as may be directed by the Officer commanding him, with any arms and accoutrements he has received from the Province, and with such provisions as such officer may direct. *Ibid*, s. 57. Sedentary militiamen to attend with their arms.
- 61.** When the Commander in Chief calls out the Militia, and the emergency is not such as to require that the whole of the Sedentary Militia or of any class thereof, or the whole in any Militia Division or of any class of Militiamen therein, be taken for actual service, he may from time to time direct the number of men to be furnished from the Sedentary Militia of the whole Province or of any Militia Division thereof, over and above the Volunteer Companies therein, which shall always be the first taken for actual service. *Ibid*, s. 58. When the whole are not taken, a certain number may be directed to be furnished.
- 62.** The number of men to be so furnished shall in the first instance be taken from the first class service men in the several company divisions in that part of the Province to which the order How such number shall be taken.

Drafting men. order applies, and in proportion as nearly as may be to the number of such men in each;—Volunteers shall be first taken from each company, but if the number of Volunteers be not sufficient, then such further number as may be required shall be drawn by lot under the superintendence of the Commanding Officer of the company, whose certificate that any man has been so drafted, or volunteered, or consented to serve as substitute for a drafted man, shall be evidence of the fact. *Ibid.*, s. 59.

Militiamen drafted must serve—find a substitute—or pay the fine.

63. No Militiaman drafted for actual service shall be exempt from serving, unless he forthwith pays a penalty of ten pounds, which shall be given to any approved man of the same class who is not himself drafted for service, and will serve in the place of the Militiaman paying such penalty, or such Militiaman may provide an approved substitute of the same class and not drafted, to serve in his place;—And any volunteer or substitute, by his consent to serve as such, shall become liable in all respects as if drafted. *Ibid.*, s. 60.

Infirm persons exempted.

64. No man drafted and unfit from bodily infirmity to perform his duty, shall be taken for service. *Ibid.*, s. 61.

In what cases second class service men may be taken.

65. If a greater number of men are required than the whole number of first class service men, then the requisite number shall be taken from the second class service men, in like manner. *Ibid.*, s. 62.

How men so taken shall be embodied and commanded.

66. The Sedentary Militiamen so taken or drafted for actual service, shall by such Officers as may be detailed for that purpose by the Lieutenant Colonel of the Battalion from which they are taken, be marched to such place as the Commander in Chief may appoint, and shall there be embodied into Companies and Battalions, in such manner as the Commander in Chief may direct, and being so embodied shall be commanded by such Officers as from their qualification and fitness he thinks proper to appoint. *Ibid.*, s. 63.

Volunteer companies may be embodied.

67. Any Volunteer Companies so called out for actual service, may be embodied into Battalions if the Commander in Chief thinks fit so to order. *Ibid.*, s. 64.

Term of service.

68. The Militiamen so taken or drafted for actual service from the Sedentary Militia, shall serve during one year unless sooner disbanded, and may then be replaced by others taken as aforesaid, and shall not be liable to be again taken until all others in the same class have been taken;—But the men in Volunteer Militia Companies shall serve for the time for which they have engaged to serve, which time shall not be less than five years, subject however, to be determined on one month's notice as hereinbefore mentioned: Provided that no Volunteer shall leave the service, either with or without notice, at

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at any time when the Militia are called out, unless he is regularly discharged or has served out the time for which he engaged. *Ibid*, s. 65.

69. The Militia so called out may be marched to any part of the Province, or to any place without the Province but contiguous therewith, where the enemy is, and from which an attack on this Province is apprehended. *Ibid*, s. 66. To what places may be marched.

70. The Militia so called out, and every Officer or man belonging to it, shall from the time he has been ordered, taken or drafted for actual service, be subject to the Articles of war and to the Act for punishing Mutiny and desertion, and all other Laws then applicable to Her Majesty's Troops in this Province, and not inconsistent with this chapter: except that no Militiaman shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that the Commander in Chief may direct that any provisions of the said laws shall not apply to the Militia. *Ibid*, s. 67. Militia called out to be subject to articles of war.

71. Any body of Militia so called out shall be commanded by the Officer highest in rank then present, or the senior of two or more Officers of equal rank;—Officers of Her Majesty's Regular Army shall always be reckoned senior to all Militia Officers of the same rank, whatever be the dates of the respective commissions;—And Colonels appointed by Commission signed by the Commander of Her Majesty's Regular Forces in Canada, shall command Colonels of Militia, whatever be the date of their respective Commissions. *Ibid*, s. 68. Rank and command of officers as regards militia.

72. No Militia Officer or Militiaman shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy;—And no sentence of any General Court Martial shall be carried into effect until approved by the Commander in Chief. *Ibid*, s. 69. For what offences only Militiaman may be sentenced to death. Sentence must be first approved.

73. No Officer of Her Majesty's regular Army on full pay shall sit on any Militia Court Martial. *Ibid*, s. 70. Officer of regular Army on full pay not to sit, &c.

ARMAMENT OF THE SEDENTARY MILITIA.

74. The arms and armaments for the Sedentary Militia shall, when such Militia is not called out for actual service, be kept in Armouries at the following places: Quebec, Three-Rivers, Rivière-du-Loup (below), Sorel, St. John's, Montreal, the City of Ottawa, Prescott, Kingston, Peterborough, Toronto, Guelph, Hamilton, London and Chatham. *Ibid*, s. 71. Arms, &c., of Sedentary Militia to be kept in certain places.

Buildings for Armouries.

75. If there be at any such place no building adapted to be used as such Armoury, the Commander in Chief may cause a proper building to be erected, at a cost not exceeding seven hundred and fifty pounds for each such building; or he may cause any public building or part thereof to be altered so as to adapt it for such Armoury at a cost not exceeding one half the said sum. *Ibid*, s. 72.

Care of such Armouries.

76. The Commander in Chief may employ a proper person to have charge of each such Armoury and of the arms therein, and may cause such person to be paid at a rate not exceeding seventy-five pounds per annum. *Ibid*, s. 73.

Arms, how delivered to Sedentary Militia.

77. The arms in such Armouries respectively, shall be delivered out to the Sedentary Militia called into actual Service, in such way as the Commander in Chief shall appoint. *Ibid*, s. 74.

May be kept by Militiamen in certain cases.

78. If there be any Militia division in which, from its position, it is not deemed advisable to have the arms of the Sedentary Militia kept in an Armoury, such arms may be delivered out to the enrolled service men of the first class or of the first and second classes in such division, as the Commander in Chief may order,—each man, giving a receipt for those received by him and security for their safe keeping and delivery to any Officer authorized to demand them. *Ibid*, s. 75.

BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES, &C., FOR THEIR TRANSPORT AND USE.

What shall be furnished by those on whom they are billeted.

79. When Her Majesty's Regular Forces or the Militia are on a march within this Province, and billeted as herein after mentioned, every householder therein shall, when required, furnish them with house-room, fire and utensils for cooking, and candles;—And in cases of emergency, by actual invasion or otherwise, the Officer commanding the Regiment, Battalion or Detachment of Troops or Militia, may direct and empower any Officer or non-commissioned Officer of the same, or other person, after having first obtained a warrant for such purpose from a Justice of the Peace, to impress and take such horses, carriages or oxen as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages or oxen. *Ibid*, s. 76.

Impressing carriages, &c., on emergency.

Justice of the Peace to billet on requisition of Commanding Officer.

80. When the said Troops of Her Majesty, or the Militia, or any Regiment, Battalion, or Detachment of the same, are on a march as aforesaid, the officer or non-commissioned Officer commanding them shall require a Justice of the Peace to billet, and such Justice shall immediately thereupon, in the said Troops or Militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants;—And every inhabitant householder shall receive the Troops

or Militia so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section. *Ibid*, s. 77.

81. No Officer shall be obliged to pay for his lodging where he is regularly billeted; but each householder upon whom such soldiers are billeted shall receive from Government for each non-commissioned Officer, Drummer and Private of Infantry, a daily rate of six pence, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of fifteen pence; And every Officer or non-commissioned Officer to whom it belongs to receive, or who does actually receive the pay for any officers or soldiers, shall, every four days, or before they quit their quarters if they do not remain so long as four days, settle the just demands of all householders, victuallers, or other persons upon whom such officers and soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money shall be distributed to them respectively, provided such demands do not exceed in amount their pay and subsistence money for the time, beyond which credit is not to be granted. *Ibid*, s. 78.

Lodging of Officers not to be paid for. Allowance for men billeted.

Proper Officer to settle accounts of Officers and soldiers out of their pay, &c.

82. When the safety of this Province requires that the said Troops of Her Majesty or Militia, or any Regiment, Battalion or Detachment of the same should be cantoned in any part of this Province, any Justice of the Peace in the places where such Troops or Militia are cantoned, shall, upon receiving an order from the Officer commanding them, or on a requisition from the Officer commanding any such cantonment, quarter and billet the Officers, non-commissioned Officers, Drummers and Privates of the said Troops or Militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to incommode the said inhabitants, and taking due care to accommodate the said Troops or Militia. *Ibid*, s. 79.

Quartering and billeting troops, &c, in cantonments.

83. If any inhabitant considers himself aggrieved by having a greater number of the said Troops or Militia billeted upon him than he ought to bear in proportion to his neighbours, then on complaint being made to two or more Justices of the locality where such Troops or Militia are cantoned, they may relieve such inhabitant, by ordering such and so many of the said Troops or Militia to be removed and quartered upon such other person or persons as they see cause, and such other person or persons shall receive such Troops or Militia accordingly. *Ibid*, s. 80.

Complaint of persons aggrieved, and how redressed

84. No Justice of the Peace having any Military Office or Commission in the said Troops or Militia, shall directly or indirectly be concerned in the quartering or billeting of any Officer, non-commissioned Officer, or Soldier of the Regiment, Corps

No Justice, being an officer, to billet or quarter troops.

Corps or Detachment under the immediate command of such Justice or Justices. *Ibid*, s. 81.

Troops not to be billeted upon Nuns, &c.

85. Nothing in this Chapter contained shall be construed to authorize the quartering or billeting of any Troops or Militia either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of Females, or to oblige any such Religious Order to receive such Troops or Militia, or to furnish them with lodging or house room. *Ibid*, s. 82.

Justice may require persons to furnish carriages, &c, for troops.

86. When any Troops of Her Majesty or any Militia are so cantoned as aforesaid, any Justice of the Peace where such cantonment is made, upon receiving an order to that effect from the Officer commanding the said Troops or Militia, or a requisition in writing from the Officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said Troops or Militia, shall issue his Warrant to such person or persons as are possessed of carriages, horses or oxen, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, and if any person after receiving such Warrant, refuses to furnish the same, they may be impressed and taken for such service; But no such carriage, horse or ox, or any carriage, horse or ox mentioned in the previous sections of this Chapter, shall be compelled to proceed more than thirty miles, unless in cases where other carriages, horses or oxen cannot immediately be had to replace them; and such carriages, horses or oxen shall be paid for at the usual rate of hire. *Ibid*, s. 83.

May be impressed on refusal to furnish.

Limitation of travel.

How paid.

In cases of emergency, boats, &c., may be required in like manner.

87. In cases of emergency, when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the Troops of Her Majesty or of the Militia, and also of their ammunition, stores, provisions and baggage, any Justice of the Peace of and in the locality where such Troops or Militia are either on a march or in cantonment, upon receiving a requisition in writing from the Officer commanding such Troops or Militia, for such railway cars and engines, boats or other craft, as are requisite for the conveyance of the said Troops or Militia, and their ammunition, stores, provisions and baggage, shall issue his warrant to such person or persons as are possessed of such railway cars and engines, boats or other craft within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said Justice, not exceeding the usual rate of hire for such railway cars and engines, boats or other craft; And if any such person neglects or refuses, after receiving such warrant, to furnish such railway cars or engines or his or their boats or craft for that service, such railway cars or engines, boats or other craft may be impressed and taken for such service:--But nothing herein shall impair the effect of any Act obliging any Railway Company to convey such Troops, Militia, and other articles aforesaid, in any manner or

Rate of pay for the same.

May be impressed on refusal to furnish.

As to Railway Companies.

or on any terms and conditions therein mentioned, or to release any such Company from any obligation or penalty thereby imposed. *Ibid*, s. 84.

OFFENCES AND PENALTIES.

- 5 **88.** Any officer of Militia refusing or neglecting to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Chapter or by any lawful authority, or wilfully making any false statement in any such roll, return, or copy, shall thereby incur a penalty of ten pounds, for each offence. *Ibid*, s. 85. Refusal to make rolls, &c. Penalty.
- 10 **89.** Any officer or non-commissioned officer of Militia refusing or neglecting to assist his Commanding Officer in making any such roll or return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return, shall thereby incur a penalty of five pounds, for each offence. *Ibid*, s. 86. Refusing to assist in making rolls, &c.
- 15 **90.** Any Militiaman or other person refusing or neglecting to give any notice or information necessary for making or correcting the Roll of any Company, and which he is required by this Chapter to give to the Commanding Officer of such Company or to any officer or non-commissioned officer thereof demanding the same at any seasonable hour and place, shall thereby incur a penalty of two pounds ten shillings, for each offence. *Ibid*, s. 87. Refusing to give information for making roll, &c.
- 25 **91.** Any Militia officer or man, not exempt from attending muster, who neglects or refuses to attend the same at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such muster, shall thereby incur a penalty of not more than one pound five shillings, for each offence. *Ibid*, s. 88. Neglecting to attend muster, or misbehaving thereat, &c.
- 30 **92.** Any person who interrupts or hinders any Militia at Drill, or trespasses on the bounds set out by the proper officer for such Drill, shall thereby incur a penalty of one pound five shillings, for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such Drill be over for the day. *Ibid*, s. 89. Hindering Militia at drill.
- 35 **93.** Any officer, non-commissioned officer or militiaman disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty of one pound five shillings for each offence. *Ibid*, s. 90. Disobeying orders, &c.
- 40 **94.** Any officer, non-commissioned officer or militiaman who fails to keep any arms or accoutrements delivered or entrusted Not keeping arms, &c., in proper order.

entrusted to him in proper order, or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of one pound, for each such offence. *Ibid*, s. 91.

Selling without leave any horse drilled and approved for any Troop, &c.

95. Any officer, non-commissioned officer or man of any Volunteer Company of Cavalry or Field Artillery, who, without the consent of the Commanding Officer of such Company, sells or disposes of any horse which has been drilled for the purposes of such Company, or which he has undertaken to furnish for such purposes, and which has been approved by the Commanding Officer of the Company, shall thereby incur a penalty of five pounds, for each offence. *Ibid*, s. 92.

Unlawfully disposing of arms, &c.

96. Any person who unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him) shall thereby incur a penalty of five pounds for each offence;—But this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid;—And any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave the Province, carrying any such arms, accoutrements or articles with him. *Ibid*, s. 93.

Not to prevent indictment.

Arrest of offender about to leave the Province.

Volunteers refusing to turn out in aid of civil power.

97. Any officer or man of a Volunteer Militia Company who, when such Company is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such Company, or to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty of five pounds for each offence. *Ibid*, s. 94.

Refusing to receive Militia billeted.

98. Any inhabitant householder who refuses or neglects to receive any Troops or Militia billeted upon him or to furnish them with the lodging and articles which he is by this chapter required to furnish, shall thereby incur a penalty of two pounds for each offence. *Ibid*, s. 95.

Refusing to furnish carriages, &c, when lawfully required.

99. Any person lawfully required under this chapter to furnish any carriage, horse or ox, for the conveyance or use of any Troops or Militia, who neglects or refuses to furnish the same, shall thereby incur a penalty of two pounds for each such offence. *Ibid*, s. 96.

Or any car, engine, boat or craft.

100. Any person lawfully required under this chapter to furnish any railway car or engine, boat or other craft, for the conveyance or use of any Troops or Militia, who neglects or refuses

refuses to furnish the same, shall thereby incur a penalty of five pounds for each such offence. *Ibid*, s. 97.

- 101.** Any person who wilfully contravenes any enactment of this chapter when no other penalty is imposed for such contravention, shall thereby incur a penalty of five pounds for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such. *Ibid*, s. 98. Contravening this Act where no other penalty is provided.
- 102.** All penalties incurred under this chapter or under any Regulations, Orders or Articles of Engagement lawfully made or entered into under it, shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one Justice of the Peace if the amount do not exceed five pounds, and before two Justices of the Peace if the amount exceeds that sum ;--And to the recovery of such penalties all the provisions of any law then in force relative to the performance of the duties of Justices of the Peace out of sessions, with respect to summary convictions and orders, shall apply in so far as may not be inconsistent with this chapter ;-- And any officer, non-commissioned officer or private of any Volunteer Militia Company shall be a competent witness in any such case, although the penalty is applicable to the purposes of such Company. *Ibid*, s. 99. Recovery of penalties.

Summary proceedings; Acts to apply.

Militia Officers, &c., may be witnesses.
- 103.** No prosecution against an Officer of Militia for any penalty under this chapter shall be brought except on the complaint of the Adjutant General ;--And no such prosecution against any non-commissioned officer or private of the Sedentary Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Battalion or Captain of the Company to which such non-commissioned officer or private belongs.--And no such prosecution against any private or non-commissioned officer of a Volunteer Company, shall be brought except on complaint of the Captain or Commanding Officer thereof :--But the Adjutant General may authorize any officer of Militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant General. *Ibid*, s. 100. On whose complaint penalties may be sued for.

Evidence of authority to sue.
- 104.** No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession arms or accoutrements delivered to the Militia. *Ibid*, s. 101. Limitation of time for such prosecutions.
- 105.** The penalty when recovered shall, if the offender belongs to the Active or Volunteer Militia, be paid over to the officer commanding the company, for the purposes thereof, and shall be applied by him to such purposes and accounted for by him to the Adjutant General ; and if the offender belongs to the Application of penalties.

the Sedentary Militia, then the same shall be paid over to the Assistant Adjutant General, who shall account for and pay it over to the Receiver General for the public uses of the Province, and it shall make part of the Consolidated Revenue Fund. *Ibid*, s. 102.

MISCELLANEOUS PROVISIONS.

Orders and notices need not be in writing, if given in person.

106. It shall not be necessary that any order or notice under this chapter be in writing, unless it is herein required, that it shall be so, provided it be communicated to the person who is to obey or be bound by it in person, either directly by the officer or person making or giving it, or by some other by his order. *Ibid*, s. 103.

General Orders, how notified.

107. All General Orders of Militia, or other Militia Orders issued through or by the Adjutant General, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*,—And a copy of the said *Gazette* purporting to contain them shall be *prima facie* evidence of such orders. *Ibid*, s. 104.

Evidence.

Regimental or Battalion Orders, how notified.

108. All Orders made by the Commanding Officer of a Militia, Regimental or Battalion division, shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in such division, or, if there be none, then in some neighbouring division, and by posting a copy thereof on the door of the church or of some court-house, mill, or other public place, in each Company division in such Regimental or Battalion division. *Ibid*, s. 105.

Evidence of commissions, warrants, &c.

109. The production of a commission or appointment, warrant or order in writing, purporting to be granted or made according to the provisions of this chapter, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such commission, appointment, warrant or order. *Ibid*, s. 106.

Bonds entered into, in pursuance of this Act, to be valid.

110. Every bond to the Crown entered into by any person under the authority of this chapter, or according to any General Order or Regulations made under it, or for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, before any Judge or Justice of the Peace, or officer therein authorized to take the same, shall be valid and may be estreated or enforced accordingly. *Ibid*, s. 107.

Sums of money payable to the Crown under this Act, how recoverable.

111. Every sum of money which any person or corporation is under this chapter liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for Militia purposes, shall be a debt

debt due to the Crown, and may be recovered in any manner in which such debts may be recovered. *Ibid*, s. 108.

112. Every action and prosecution against any Officer or person, for any thing done in pursuance of this chapter, shall be laid and tried in Lower Canada in the district, and in Upper Canada in the county, where the act complained of was done, and shall not be commenced after the end of six months from the doing of such act, nor until one calendar month's notice in writing of the action and of the cause thereof has been given to the defendant ;--And in any such action the defendant may plead the general issue and give this chapter and the special matter in evidence at the trial :--And no Plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought. *Ibid*, s. 109.

Protection of officers, &c., in pursuance of this Act,--

Limitation of action.

Tender of amends.

113. If a verdict passes for the defendant in any action referred to in the next preceding Section, or the plaintiff comes non-suit or discontinues the action after issue joined, or if on demurrer or otherwise judgment is given against the plaintiff,--the defendant shall recover his full costs as between attorney and client, and shall have the same remedy therefor as any defendant hath in other cases :--And though a verdict is given for the plaintiff, he shall not have costs against the defendant, unless the Judge before whom the trial has been had certifies his approbation of the action and the verdict therein. *Ibid*, s. 110.

If plaintiff be non-suit, &c.

No costs against defendant except with approval of Judge.

114. All sums of money required to defray any expense authorized by this Chapter, may be paid out of the Consolidated Revenue Fund of this Province, upon warrant directed by the Governor to the Receiver General ; and such warrants may be made in favour of the Adjutant General of Militia, to enable him to pay such expense, or in favour of the party directly entitled to the money : But no sum of money shall be so paid by resolution of the Legislative Assembly in the annual estimates. *Ibid*, s. 111.

Payment of moneys under this Act.

Proviso.

115. A detailed account of all moneys advanced or expended under this Chapter shall be laid before each Branch of the Provincial Parliament within fifteen days after the opening of the then next session thereof. *Ibid*, s. 112.

Accounting to Parliament.

116. The Interpretation Act shall apply to this Chapter, and to all regulations, orders and articles of engagement lawfully made or entered into under it. *Ibid*, s. 114.

Interpretation.

117. This Chapter shall be in force for three years from the first day of July, one thousand eight hundred and fifty-five, and

Commencement and duration

ration of this chapter. • and from thence until the end of the then next ensuing session of Parliament of this Province, and no longer :--Except that if at the time when this Chapter would otherwise expire, there should happen to be War between Her Majesty and the United States of America, then this Chapter shall continue in force until the end of the session of the Provincial Parliament next after the Proclamation of Peace between Her Majesty and the said United States, and no longer. *Ibid*, s. 115.

Acts repealed. 118. The Acts 9 V. c. 28,--13, 14 V. c. 11,--4, 5 V. c. 2,--12 V. c. 88 and 12 V. c. 89--having been repealed by the Act 10 18 V. c. 77,--all Acts and Laws repealed by the said Acts or any of them shall nevertheless remain repealed ;--And all offences committed against them or any or them before the said Act 18 V. c. 77 came into force, shall be prosecuted and punished, under the said Acts and Laws, which shall remain in force as to such offences. *Ibid*, s. 1.

C A P . X X X V I .

An Act respecting Lands and Real Property, held or required by the Imperial Government for the Military defence of this Province.

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

TRANSFER OF LANDS, AND POWERS TO THE WAR DEPARTMENT.

1. All lands and other real property comprised in the Schedule to this Act annexed, and all other lands and other real property, except the lands and property in the second Schedule to the *Act respecting the Ordnance Lands transferred to the Province*, which by virtue of the Act 7 V. c. 11, or of any other Act or Acts, or of any conveyance, surrender, lease or other assurance, or of any law, custom or usage whatsoever, were at any time before the nineteenth day of June, 1856, vested in the Principal Officers of the Ordnance on behalf of Her Majesty, or purchased, vested or taken by or in the name of or by any person or persons in trust for Her Majesty, for the use of the said Department, or for the defence and security of this Province, that is to say :
2. All castles, forts, lines or other fortifications, messuages, lands, lands covered with water, beaches, beds of rivers, Canals and Works connected therewith, tenements, estates and other hereditaments, real property, rights, easements and servitudes whatsoever, (all which things shall be intended by the words "Lands and other real property" wheresoever they occur in this chapter) within this Province, and immediately before the passing of the Act passed in the seventh year of Her Majesty's Reign, chaptered eleven, (hereinafter referred to as the *Ordnance vesting Act*.) vested in Her Majesty, or in any person or persons, officer or officers, in trust for Her Majesty, and set apart, used or occupied for purposes connected with the military defence of the Province, or placed under the charge and control of the Officers of the said Ordnance Department, or of the Commander of Her Majesty's Forces, or other Military Officer or Officers, whether the same became so vested in Her Majesty, or Her Royal Predecessors for such purposes by the cession of this Province, or have been by Her or them set apart or transferred from the lands, demesnes, or other real property of the Crown, or from the Clergy Reserves, or have been intended to be so set apart or transferred, for any of the purposes aforesaid, or have been purchased for such purposes by any person, or officer, and paid for out of funds provided for that purpose by the Parliament of the United Kingdom, and surrendered or conveyed to Her Majesty, or Her Royal Predecessors,

Lands and property transferred to the Secretary of State.

What property shall be vested lands used for military defence or under control of the Ordnance Department.

or

or to some person in trust for Her or them, or have been set apart or transferred or have been taken for any such purposes, under the authority of any Act or Law, in force in this Province, or in any part thereof, (by whatsoever mode of conveyance the same have been purchased and taken, and whether in fee or absolute property, or for any life or lives, or term or terms of years, or for any lesser interest, or *à titre de cens*.)—And all such Lands, and other real property, and all others which have since the passing of the said Act been purchased by the said Principal Officers, or which having been acquired and purchased, or taken for the Crown, and the price or compensation thereof paid out of funds provided by the Imperial Parliament, Her Majesty has been pleased to direct to be vested in the said Principal Officers, and all erections and buildings erected, or built thereon, together with the rights, members, and appurtenances to the same respectively belonging, and which have not been sold or otherwise disposed of by the said Principal Officers, and are not comprised in the said Schedule to the *Act respecting the Ordnance Lands transferred to the Province*,—and also all the moveable and personal property of Her Majesty held or used for the services and purposes aforesaid, or any of them,—are and shall remain vested in Her Majesty's Principal Secretary of State for the time being to whom Her Majesty thinks fit to intrust the Seals of the War Department, according to their respective nature and quality, and the several estates and interests therein, subject to the provisions of this chapter, on behalf of and in trust for Her Majesty, for the service of the War Department, or for such other services as Her Majesty, or the said Principal Secretary of State, from time to time, direct :

Proviso—
Lands or buildings purchased with Provincial funds not to be so transferred.

3. Provided always, that nothing in this Chapter, or in the said Act 7 V. c. 11, shall extend to vest in the said Principal Officers or the said Principal Secretary of State, any Lands or Buildings which have been purchased or erected for Provincial purposes, with funds provided by the Legislature of this Province, or of either of the late Provinces of Upper or Lower Canada, unless the same have been or are lawfully purchased by, and conveyed to the said Principal Officers or Secretary of State, under the provisions of some Act or Law in force in this Province; or any Lands or Buildings belonging to the Civil Government of the Province, notwithstanding that the same may have been under the charge and control, or in the use or occupation of the Ordnance, or any other Military Department;

Proviso.

4. And provided also, that nothing in this chapter or in the said Act shall extend to vest in the said Principal Officers or in the said Secretary of State, any Lands which, before the passing of the said Act, had been granted by Her Majesty, or Her Royal Predecessors, to any other person or party, unless the same were subsequently to such grant, lawfully purchased or acquired

acquired or taken for the purposes of the said Ordnance Department, nor to impair, diminish or affect any right, title or claim, vested in or possessed by any person or party at the time of the passing of the said Act, to, in or upon any Lands or real property whatsoever, nor to give the said Principal Secretary of State, any greater or better title to any Lands or real property than was then vested in the Crown, or in some person or party in trust for the Crown. 7 V. c. 11, s. 1,--and 19, 20 V. c. 45, s. 2.

2. The lands and other real property so as aforesaid transferred to and vested in the said Principal Secretary for the time being intrusted with the Seals of the War Department, shall be subject nevertheless to every lease or agreement for lease entered into with or by the Principal Officers of Ordnance, or any person or persons authorized and empowered by the said Principal Officers to exercise the powers and authorities of the said Ordnance vesting Act, of or in respect of any such lands or other real property :

Lands transferred to be subject to leases, &c

2. And when and so often as any person having been such Principal Secretary of State, ceases to hold such Office, the said several lands and other real property, and all lands and other real property purchased or otherwise acquired or held by him as such Principal Secretary of State, on behalf of Her said Majesty, shall, by virtue of this Chapter, be absolutely divested out of such Secretary of State and shall, be transferred to and vested in his Successor in the said Office, immediately upon his receiving the Seals of the said Department, absolutely ;

To vest in the Successors in office of such Secretary.

3. And the said lands and other real property vested and to be vested in any such Principal Secretary of State and his Successors, shall, as to such of them as were purchased or are held for an estate of inheritance in fee simple, be so vested in such Principal Secretary of State and his Successors, in the same manner as if the fee simple thereof had been originally conveyed to such Principal Secretary of State, as a Corporation sole, and his Successors, and as to all lands and other real property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments and property had been originally conveyed, surrendered, demised or otherwise assured to such Principal Secretary of State, as a Corporation sole, and his Successors, for all the existing estates, or interests therein respectively, and so from time to time. And wherever such Principal Secretary of State as aforesaid, is mentioned or referred to in this Chapter, his Successors in Office are also intended and included, unless it is otherwise expressed. 19, 20 V. c. 45, s. 2.

To be held by him or any Successor in office as a Corporation sole, and for the same estate as the Principal Secretary had in them.

3. All contracts, covenants and agreements made and entered into by any person or persons whomsoever with the said Principal Officers of the Ordnance, or any person or persons on their behalf,

Contracts, &c., to continue with the said Secretary in

place of the
Principal Offi-
cers.

And so of any
proceedings
commenced.

behalf, as to or concerning any lands or other real property vested in or agreed to be purchased by the said Principal Officers, or in any wise relating to the public service of the Ordnance, shall be deemed and taken to have been made or entered into with such Principal Secretary of State as aforesaid for the time being, and shall be executed and enforced by him in like manner as if he had originally been party thereto instead of the said Principal Officers of Ordnance:—And all proceedings whatsoever which have been or might have been commenced, taken or done in the names of the said Principal Officers on behalf of Her Majesty, shall be commenced, continued, taken and done in the name of such Principal Secretary of State as aforesaid, in like manner (in the case of proceedings already commenced, taken or done) as if he had originally been party thereto instead of the said Principal Officers of the Ordnance. 19, 20 V. c. 45, s. 3.

How the said
Secretary may
be described
in Deeds re-
lating to such
property and
rights, &c.

How such
Deeds, &c.,
may be exe-
cuted.

4. In every contract, conveyance, surrender, lease or other assurance of any lands or other real property, with, unto or by the said Principal Secretary of State for the time being, and in every other Deed or Instrument relating to any lands, hereditaments, estates or property, or in any wise to the public service, to which the said Principal Secretary of State for the time being is or is intended to be a party, it shall be sufficient to call or describe him by the style or title of "Her Majesty's Principal Secretary of State for the War Department," without naming him;—And every such contract, conveyance, surrender, lease, assurance, deed or instrument may be executed by such Principal Secretary of State, or by any other of Her Majesty's Principal Secretaries of State, for the time being, by signing his name thereto, and if the instrument so executed be in the form of a deed, by setting or affixing a seal thereto and delivering the same as his deed;—And whenever any contract, conveyance, surrender, lease, assurance, deed or instrument is executed by any other Principal Secretary of State, the Principal Secretary of State so executing the same, shall, for that time, and on that occasion and for the purposes thereof, be deemed to be Principal Secretary of State for the War Department. 19, 20 V. c. 45, s. 5.

Lands, &c.,
to be hereafter
acquired, to be
vested in like
manner.

5. From and after the setting apart, grant, purchase, conveyance, demise or taking thereof, all other lands and other real property or estate or interest therein, at any time granted or purchased, or taken by such Principal Secretary of State as aforesaid, or by any person or persons for him, for the service of the War Department, or surrendered to or taken by Her Majesty or purchased or taken by any person in trust for Her Majesty for such services, under the provisions of this chapter, or of any other Act or Law, and all erections or buildings then, or thereafter erected or built thereon, with the rights, members and appurtenances to the same respectively belonging, shall in like manner be, and become and remain vested in the said Principal

Principal Secretary of State, and his successors in the said office, according to the nature and quality of the said lands and other real property, and the several and respective estates and interests of and in the same respectively, and on behalf of Her Majesty. 7 V. c. 11, s. 2, *as amended by* 19, 20 V. c. 45.

6. All public Lands certified under his hand and seal by the Commander of Her Majesty's Forces in this Province, to be necessary for the erection of any fort, barrack, battery or other military work, or for preserving such work free from obstructions, may, on an order of the Governor in Council, be freely granted by Letters Patent under the Great Seal of this Province, to such Principal Secretary of State as aforesaid, in trust as aforesaid; and being so granted, may be disposed of by him in the same manner as other lands vested in him under the provisions of this chapter, or of any former Act,—And all other Public Lands may be purchased by, and granted to, and vested in such Principal Secretary of State, on the payment of the price thereof by him, out of any funds provided for that purpose by the Imperial Parliament. 7 V. c. 11, s. 3, *as amended by* 19, 20 V. c. 45.

Public lands necessary for military works may be granted to Principal Secretary of State;

And other lands on payment therefor out of Imperial funds.

7. Provided that any lease or conveyance, or any promise of a lease or conveyance of any part of the Lands or other real property vested in such Principal Secretary of State as aforesaid, or of any estate or interest therein, made or entered into before the passing of the said Ordnance Vesting Act, by any officer or person under whose control such lands or property were placed, or in whom the same were vested in trust for the Crown, shall be held good and valid by the said Principal Secretary of State, who shall ratify and confirm the same, and execute all deeds and instruments which may be necessary for that purpose, on the terms and conditions on which such lease, conveyance or promise was made. 7 V. c. 11, s. 4, *as amended by* 19, 20 V. c. 45.

Secretary of State to abide by leases, &c., made by officers of the Ordnance Department and others.

8. Any term or terms of years, or other less estate or right assigned, or reserved, in or to attend upon the inheritance or absolute property of any land or real property hereby vested in such Principal Secretary of State as aforesaid at the time the same was surrendered or conveyed to, or in trust for the Crown, shall be and remain vested in the party or trustee or trustees, his or their executors, administrators, assigns or legal representatives, to or in favour of whom the same were so assigned or reserved :—And in case from any circumstance whatever, it is in the judgment of such Principal Secretary of State expedient so to do, such Principal Secretary of State may convey, surrender or assign all or any of the lands and other real property and premises at any time vested in him, and may direct all or any of the lands and other real property and premises agreed to be purchased or taken by him, to be conveyed, surrendered or assigned to a trustee or trustees for

Terms assigned to attend inheritance.

Principal Secretary of State may assign to trustees for the use of the War Department.

for the use of the War Department or the defence of this Province, upon the trusts to which the same are or ought to be subject. 7 V. c. 11, s. 8, as amended by 19, 20 V. c. 45.

Principal Secretary may purchase and take lands, &c. for the Service of the War Department.

9. Such Principal Secretary of State as aforesaid may from time to time contract for, purchase and take, for and on behalf of Her Majesty, Her Heirs and Successors, any lands or other real property, or any lease of, or other interest in the same which in his judgment it is desirable to purchase or take for the service of the said War Department, or the defence of this Province, upon such terms as to such Principal Secretary of State seem meet,---and may enter into any contracts necessary for that purpose,---And all such lands or other real property, estate or interest therein so purchased shall be conveyed, granted or surrendered to such Principal Secretary of State in trust as aforesaid. 7 V. c. 11, s. 9, as amended by 19, 20 V. c. 45.

Enabling clause.

Certain parties may convey to the Principal Secretary of state.

10. All bodies politic or corporate, ecclesiastical or civil,--- and all feoffees and trustees for charitable or other public purposes,---and all tenants for life, or in tail, or in substitution,--- and the husbands, guardians, trustees, committees, curators, tutors or attorneys of such of the owners or proprietors of, or parties interested in any lands or other real property, agreed to be purchased, or taken by such Principal Secretary of State as aforesaid, for any of the purposes aforesaid, as are married women, *femes covert*, minors, infants, lunatics, idiots, interdicted persons, or persons absent from the Province, or otherwise incapable of acting for themselves,---may validly contract and agree with such Principal Secretary of State, either for the absolute sale or exchange of any such lands, or other real property, or for the sale, grant or release of any estate, right, title or interest therein, or for the reversion thereof after any estate or estates for lives or years or other future or contingent interest, or for any term of years therein, or for such period as the exigency of the public service may require, and may convey, surrender, grant or demise the same accordingly: 19

Contracts &c., to be valid. Their legal effect.

2. And all contracts, sales, conveyances, releases, surrenders, leases and agreements made in pursuance of this Chapter shall be valid and effectual in law and in equity to all intents and purposes whatsoever, and shall be a full and complete bar to all dower and claims of dower, estates-tail, substitutions, mortgages, hypothecations and other estates, rights, titles, trusts, uses and interest whatsoever. 7 V. c. 11, s. 10, as amended by 19, 20 V. c. 45.

Power to sell or dispose of the property vested by this chapter.

11. Such Principal Secretary of State as aforesaid may sell, exchange, or in any manner dispose of, or let or demise any lands or other real property vested in him by virtue of this chapter, or any estate or interest therein so vested, or any of the said moveable and personal property hereby vested in him,---

him,--either by public auction or by private contract,--and may convey, surrender, assign or make over, grant, demise or deliver the same (as the case may require) to any party willing to take the same in exchange or otherwise,--and may also do any other matter or thing in relation to any such lands or other real, moveable or personal property which is by such Principal Secretary of State as aforesaid deemed beneficial for the public service, and conducive to the better management and use of the property hereby vested in him, which might be done by any person having an estate or interest in the same, of the same nature as that vested in or held by such Principal Secretary of State in trust as aforesaid. 7 V. c. 11, s. 12, *as amended by 19, 20 V. c. 45.*

19. The moneys to arise and be produced by the sale, or exchange, demise or disposal of any such lands or other real property as aforesaid, sold or exchanged, demised or disposed of under the provisions of this chapter, shall be paid by the purchaser thereof or the person making such exchange, or to whom the same are demised or disposed of, to such person or officer as such Principal Secretary of State as aforesaid shall appoint to receive such moneys, for such purposes as Her Majesty may direct;--And the receipt of such person or officer as aforesaid, (such receipt being endorsed or written upon or subjoined to the conveyance, surrender, assignment, lease or other instrument or an authentic copy thereof, shall effectually discharge the purchaser or person by whom or on whose account such moneys are paid. 7 V. c. 11, s. 13, *as amended by 19, 20 V. c. 45.*

Moneys arising from such sale to be paid to those whom the Principal Secretary of state may direct.

ACQUIRING OR TAKING LANDS REQUIRED FOR MILITARY PURPOSES.

12. Such Principal Secretary of State as aforesaid may enter upon, survey and mark out any lands or other real property which in his judgment are wanted for the service of the War Department or for the defence of this Province,--and may treat and agree with the owner thereof, or with any party or person who by the preceding provisions of this chapter is authorized to convey or demise the same, either for the absolute purchase of the same or of some estate or interest therein, or for the possession or use thereof, during such time as the exigence of the public service, in the judgment of such Principal Secretary of State, requires :

Principal Secretary of state may enter upon and survey lands required for the War Department, and treat for them.

2. But before entering upon and surveying or marking out any such lands or real property in the actual occupation of the proprietor or any other person, [such Principal Secretary of State shall give notice of the day and hour of such intended entry, in writing, by the space of seven days, to such owner or other person, under the hand of some Officer or person duly authorized to that effect ;

Before entry, Principal Secretary to give notice in writing.

This Act not to interfere with the Niagara harbour and Dock company.

3. And nothing herein contained shall authorize such Principal Secretary of State to enter upon, take possession of, or otherwise interfere with the Lands described in the Act of the Parliament of Upper Canada, intituled, *An Act to incorporate the Niagara Harbour and Dock Company*, but the said Company shall hold, possess and enjoy the same; any thing in this chapter to the contrary notwithstanding. 7 V. c. 11, s. 14, as amended by 19, 20 V. c. 45.

Not to prevent the construction of any Canal or Railroad through any reserves for military purposes.

14. Nothing herein contained shall restrain or prevent the Parliament of this Province from authorizing the construction of any canal or railroad upon or over any lands reserved or set apart as aforesaid by the Governor of either of the said late Provinces as aforesaid, in Council, for Military purposes, and which by this chapter are vested in such Principal Secretary of State as aforesaid. 7 V. c. 11, s. 15.

Proceedings in case the owner refuses to sell, &c.

15. In case the person or party hereby authorized to convey or demise any lands or other real property so marked out and surveyed as aforesaid, is absent from the Province, or unknown to such Principal Secretary of State as aforesaid, or for the space of fourteen days next after notice in writing subscribed by or on behalf of such Principal Secretary of State has been served on or left at the residence or domicile of such person or party (or if the party be a body politic or corporate, having no legal domicile, then on the Chief Officer thereof, or at his usual place of residence) refuses or declines to sell, or demise, or to enter into such contract with regard to such lands or other real property, as is satisfactory to the said Principal Secretary of State, or refuses the price or consideration offered by him, then on the requisition of such Principal Secretary of State the Governor of this Province, being satisfied of the facts aforesaid, may require any Sheriff for the District, County, City, Town or place where such lands or other real property lie, to cause such Principal Secretary of State to be put into possession thereof, which such Sheriff shall accordingly do by issuing a warrant under his hand and seal, taking with him sufficient assistance :

Governor may cause possession to be given.

Jurors summoned.

2. And the said Sheriff or his Deputy shall summon twenty-four persons qualified to be Special Jurors, who stand first in order to be summoned on his lists, to be and appear at the Court House of the district or County, on a day and at an hour to be named in such warrant, and not being less than ten days after the Sheriff has put such Principal Secretary of State into possession as aforesaid, and of which day and hour he shall give notice in writing to the owner or proprietor, and to all persons whom he finds on the premises, when he gives possession thereof ;

Jury formed.

3. And at the time so appointed, a Jury shall be formed out of the Jurymen so summoned, allowing to the parties, if present, their

their lawful challenge to any Juror or to the array, and the said
 Jury being sworn before the Sheriff or his Deputy authorized
 to issue the warrant of possession shall, on hearing the wit-
 nesses and the evidence adduced before them, inquire of and
 5 determine the price or compensation to be paid by such Prin-
 cipal Secretary of State, either for the absolute purchase of
 the lands or other real property in question, or for the posses-
 sion or use thereof, as the case may be ;--and their verdict Verdict.
 shall be certified by the Sheriff or his Deputy aforesaid,
 10 with the costs to be ascertained as hereinafter mentioned,
 that is to say :--There shall be allowed to the Sheriff, for ex-
 ecuting the warrant of possession and summoning the Jury,
 forty shillings, and for swearing the said Jury presiding at the
 15 inquiry and receiving the verdict, twenty shillings, together
 with necessary travelling expences ;--to each Juror sworn ten
 shillings, and a reasonable allowance to each material witness Costs.
 to be taxed by the said Sheriff ; --And such costs shall be paid
 by such Principal Secretary of State, unless he has tendered
 to the opposite party a sum at least equal to that awarded by
 20 the verdict, in which last case they shall be paid by the said
 party ;--And the Sheriff may cause any witnesses to be sum-
 moned, and compel their appearance, and may adjourn any
 meeting if Jurymen or witnesses do not attend : and such
 Sheriff or his Deputy may administer all necessary oaths as
 25 well to the Jurors as to the witnesses to be produced by the
 parties. 7 V. c. 11, s. 16, as amended by 19, 20 V. c. 45.

16. If the Principal Secretary of State as aforesaid, or any person or party interested in the lands and other real pro- Appeal to the
 perty so marked out and taken as aforesaid, is dissatis- Superior
 30 fied with the verdict of the Jury,--he may, at the term
 commencing next after the rendering of such verdict, if the
 owner or some person hereby empowered to convey such lands
 and other real property, has had due notice of the taking there-
 of, or within one year, if they have been taken as belonging to
 35 some party unknown, or as being absent from the Province, and
 having left no known person therein, who might convey or
 demise the same on behalf of such party,--apply to the Supe-
 rior Court in the District in which the lands and other real
 40 property lie if the same are in Lower Canada, or to the Court
 of Queen's Bench or of Common Pleas, if the same are in
 Upper Canada, and may suggest that he has reason to be dis-
 satisfied with such verdict, and give notice of such application Security for
 to the opposite party, and give security to the satisfaction of costs.
 45 the Court for the payment of costs,--and thereupon, the pro-
 ceedings which have been had in the matter and the verdict
 of the Jury shall be returned into Court, and if it appears to
 the Court that the application ought to be granted, then the
 Court shall direct the compensation payable to be assessed
 50 and ascertained by a Jury according to law and the course and
 practice of the Court, and as any damages may be inquired of
 and ascertained by a Jury,--and the verdict of such Jury shall
 be

Jury to be
 directed to in-
 quire of com-
 pensation.

New assessment.

be final and conclusive, unless a new assessment of such damages is for sufficient reason granted by the Court, according to the course and practice thereof and to law. 7 V. c. 11, s. 17, as amended by 19, 20 V. c. 45.

Jury may assess separately the compensation to be paid to any lessee.

17. Any such Jury either in the first instance, or on an appeal to the Superior Court, Court of Queen's Bench or Common Pleas as aforesaid, may ascertain the proportion of the compensation money to be paid to any lessee or tenant at will, or otherwise, of the land or other real property in question, or of any part thereof, and to return the same as part of their verdict :

If lessee or tenant at will is alone dissatisfied, &c., or vice versa.

2. And where any such appeal is had solely on the application of a party dissatisfied with the sum awarded to be paid out of the compensation to any lessee or tenant at will, or otherwise, such Principal Secretary of State as aforesaid shall not be made a party to such appeal, and the total amount of the compensation awarded by the former Jury shall not be altered ;— And if the appeal is had solely on the application of any party dissatisfied with the total amount of compensation awarded by the former Jury, the lessee or tenant at will shall not be made a party to such appeal, and the sum awarded to be paid to him shall not be altered. 7 V. c. 11, s. 18, as amended by 19, 20 V. c. 45.

Lands for which compensation is awarded to be vested in Principal Secretary of State.

18. All lands and other real property of which possession has been given to such Principal Secretary of State as aforesaid under such warrant as aforesaid, and for the absolute property of which the compensation has been ascertained by the verdict of a Jury, in the manner hereinbefore prescribed, shall be vested in such Principal Secretary of State, in trust as aforesaid ;—And the payment or tender of the compensation to any parties who might, without this chapter, have conveyed the same, or the interest, or the estate therein, for which such compensation has been awarded, or the payment thereof in the manner provided by this chapter, when such party acts on behalf of others, shall for ever bar the right or claim of such party, and those for whom he acts, in or to such lands or other real property :

Proviso : in what cases only lands may be taken without the consent of the owner.

2. But no such lands or other real property shall be so taken in absolute property, without the consent of some party who might, under this chapter, convey the same, nor for any term of years, or other term, without the consent of some party who might have demised the same for such term, — unless the necessity for taking the same has been first certified under his hand and seal by the Commander of Her Majesty's Forces in this Province, or unless an enemy has actually invaded this Province, when such lands or real property are so taken. 7 V. c. 11, s. 19, as amended by 19, 20 V. c. 45.

19. In all cases where any lands or real property have been demised to, or taken by such Principal Secretary of State as aforesaid, for any term of years, or for such period only as the exigencies of the public service require,—such Principal Secretary of State may, notwithstanding anything in this chapter or in any other Act or Law, at any time before they deliver up possession of the same, take down and remove all buildings or other erections built or erected thereon for the public service, after such lands or real property were demised to, or taken by such Principal Secretary of State, and may carry away, sell or dispose of the materials thereof, making such compensation to the owner of such lands or real property, or to the person authorized to act on his behalf, for the damage or injury done to such lands or real property by the erection of such buildings or otherwise in consequence of the same having been occupied for the public service, as such Principal Secretary of State thinks reasonable, or as may be agreed upon in that behalf :

Principal Secretary of State may remove buildings erected by him on lands taken for a term only ;—paying for any damage done to the soil, &c.

20. And if the owner or person authorized to act on his behalf is not willing to accept the compensation so offered, such Principal Secretary of State may apply to, and require any two Justices of the Peace for the district, county, city or place, to settle and ascertain the compensation which ought to be made for such damage or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof ;—and the amount so ascertained shall be forthwith paid by such Principal Secretary of State, to the person or party entitled to the same ;

Damage done, how ascertained in case of dispute.

21. But nothing in this chapter contained shall extend to alter, prejudice or affect any agreement entered into by such Principal Secretary of State, with the owner of any lands or real property, or any person authorized to act on his behalf, with regard to any such buildings or erections, but every such agreement shall remain valid and effectual, according to the intent and purport thereof. 7 V. c. 11, s. 20, as amended by 19, 20 V. c. 45.

Agreements not to be affected.

PAYMENT OF PURCHASE MONEY, &c.

22. Where any lands or real property have been taken by such Principal Secretary of State as aforesaid, under a warrant of possession, without the consent of any party who could convey or demise the same to such Principal Secretary of State—then the compensation money awarded by the verdict of a Jury in the manner aforesaid, shall remain in the hands of such Principal Secretary of State until it be claimed by some party who might have conveyed (or demised as the case may be) such lands or real property, and shall execute such deed or warranty, and quit claim to such Principal Secretary of State as may suit the case, bearing simple interest at the legal rate during two years, (if it remains in their hands so long) but not afterwards. 7 V. c. 11, s. 21, as amended by 19, 20 V. c. 45.

Compensation for lands taken from absentees to remain in the hands of the Principal Secretary of State, until claimed by some competent party.

21.

Compensation for lands in Lower Canada purchased or taken from any party not having the absolute interest, how to be paid.

21. Except as hereinafter provided,—Where any money has by the Verdict of any Jury been agreed or required to be paid by such Principal Secretary of State as aforesaid, for the absolute purchase or exchange of any lands or other real property, lying within Lower Canada, or of any estate or interest in such lands or real property, conveyed by or taken from any body politic or corporate, person or party who without this chapter would have been unable legally to convey the same, or has not the absolute interest therein,—such money shall not (except as hereinafter excepted) be paid into the hands of the person or party who makes and executes the sale, exchange, or other conveyance, or warranty, and quit claim, but the same shall be deposited with a copy of the deed of sale or exchange or of other conveyance, or of warranty, and quit claim, in the hands of the Sheriff for the District in which the lands or other real property lie,—and upon the making and granting of the receipt which such Sheriff is hereby authorized and required to grant to such Principal Secretary of State, the lands or other real property or estate or interest therein conveyed by the said deed shall be and become vested in such Principal Secretary of State in trust as aforesaid :

On the application of any party interested, Sheriff to issue notice, and Court to make such order as may be consistent with the rights of the parties.

2. And such Sheriff shall, after the receipt of the said money and on the application of any party claiming the same, or any interest therein, and filing such claim with the application,—make and insert during four months in the Official Gazette of the Province, and also in one other public newspaper published in each of the cities of Quebec and Montreal, a notice in both languages, containing the date and nature of the deed or conveyance, and the amount of money deposited, and a description of the lands or other real property to which such deed or conveyance relates, and calling upon every person or party legally entitled to claim the whole or any part of the said money, or possessed of any rights, titles, hypothecs, or interests which ought to be paid out of, or secured upon the same, either personally or as duly representing some interested party,—to file their claims, within thirty days after the expiration of the said four months in the office of the said Sheriff, after which delay no such claim shall be received or admitted ;

Certain parties enabled to file claims.

3. And all married women entitled to dower not then open, on such lands or real property, and all persons duly representing minors, lunatics, idiots, or persons absent from the Province, having any right, title, interest or claim to, or in the said money, and all persons and parties having any such right, title, interest or claim in their own name, are hereby authorized to file their claims as aforesaid, and the Superior Court in the district with the Sheriff whereof the said claims are filed, shall hear and determine the same, and order a final distribution of the said moneys to or among the parties entitled to the same, or order the application and placing of the same or any part thereof, so as to secure present and future rights, in such manner

manner as to law and justice may appertain. 7 V. c. 11, s. 22, as amended by 19, 20 V. c. 45.

22. Except as hereinafter provided,—Where any money has been agreed, or required by the verdict of any Jury to be paid by such Principal Secretary of State as aforesaid, for the absolute purchase or exchange of any lands or other real property lying within Upper Canada, or of any estate or interest in such lands or real property which has been conveyed by or taken from, any body politic or corporate, person or party, who without this chapter would have been unable legally to convey the same, or has not the absolute interest therein,—such money shall not (except as hereinafter excepted) be paid into the hands of the person or party who makes and executes the sale, exchange or other conveyance, warranty or quit claim, but such Principal Secretary of State shall, forthwith after the execution thereof, file a copy of the deed or instrument, (certified as correct, by some Justice of the Peace who has compared the same with the original, and also by some person authorized to act on behalf of such Principal Secretary of State,) in the office of the Clerk of the Crown, in the Court of Queen's Bench or the Court of Common Pleas, with a declaration that such Principal Secretary of State is ready to pay over the said money, to such trustee, person or officer, as any two Justices of the Court shall appoint to receive the same :

As regards compensation for lands purchased or taken, in U. C. from parties not having the absolute interest—Principal Secretary of State to file in Queen's Bench copy of the deed and declare himself ready to pay the money.

2. And upon the application of any person or party having an interest in the said money, two Justices of the Court, upon reading the said declaration, deed or instrument, and receiving such further satisfaction as they deem necessary, may, in a summary way, make and pronounce such orders and directions for paying the said money or any part of the same, or for placing such part thereof as is principal in any public securities of this Province, or real securities, and for the payment of the dividends or interest thereof, or any part thereof, to the respective parties entitled to receive the same, or for laying out the principal or any part thereof, in the purchase of lands or other real property, to be conveyed and settled to, and for, and upon the same uses, trusts, interests or purposes, as the lands or other real property for which such money is the compensation, stood settled at the time they were conveyed, or taken as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said moneys or any part thereof, for the benefit of the party or parties entitled to or interested in the same, respectively, or for appointing any person or persons to be a trustee or trustees for all, or any of such purposes, or for requiring any security from any person to whom such moneys, or any part thereof, are to be paid or entrusted,—as to the said Justices shall appear just and right ;— And all such orders and directions shall be obeyed by such Principal Secretary of State, and the receipt of the person or officer to whom they pay the said money, or any part thereof,

The Justices of the Court, may, on the application of any party interested, make such orders as may be necessary to secure the rights of the parties.

in obedience to such orders and direction, shall be their valid discharge for the money so paid. 7 V. c. 11, s. 23, *as amended by 19, 20 V. c. 45.*

Cases in Upper Canada when the compensation shall be less than £200.

23. Provided that in any case where such moneys, as are lastly hereinbefore mentioned, are less than two hundred pounds, and exceed twenty pounds, the same shall, at the option of the party for the time being entitled to the rents and profits of the land or other real property purchased or taken, or of the guardian or guardians, committee or committees, of such party in case of infancy or lunacy, to be signified in writing under their respective hands, be paid as aforesaid, under the orders and directions of two Justices of the said Court of Queen's Bench or Common Pleas or otherwise, at the like option shall be paid to three trustees nominated by the party making such option, and approved by such Principal Secretary of State as aforesaid, (such nomination being signified in writing under the hands of the nominating and approving parties,) in order that such money may be invested in the purchase of public securities of the Province, and that such stock, when purchased, and the dividends arising therefrom, may be applied in the manner hereinbefore directed, so far as the same may be applicable, without obtaining the order and direction of any Justices of the Court, and with the same effect as if such payment had been made under such orders and directions. 7 V. c. 11, s. 24, *as amended by 19, 20 V. c. 45.*

Cases either in Upper or Lower Canada when the compensation shall be less than £20, provided for.

24. Provided also, that in any case where the compensation or purchase money, is less than twenty pounds, the same shall, whether the lands or real property for which the same are payable is in Upper Canada or in Lower Canada, be applied to the use of the party who would, for the time being, be entitled to the rents and profits of such lands, and shall be paid to such party, or to any person who might lawfully receive such rents and profits, for the use of such party, with the same effect as if the same had been paid into the hands of any Sheriff in Lower Canada, or under the order of any two Justices of either of the said Courts in Upper Canada. 7 V. c. 11, s. 25, *as amended by 19, 20 V. c. 45.*

Parties conveying lands to Principal Secretary of State, to be deemed to have been lawfully entitled so to do, until the contrary be proved, in all questions as to any claims for compensation.

25. If any question arises touching the right of any party to any money or public securities arising from any such compensation or purchase money as aforesaid, and entrusted to or vested in any trustee or trustees, or other person or persons, pursuant to the directions of this chapter,—the party by whom, or on whose behalf the lands or other real property, estate or interest, for which the said money was payable, have been conveyed, warranted or quit claimed, to or in favor of the Principal Secretary of State as aforesaid, shall be held to have been lawfully entitled to convey the same, until it be proved by the judgment of some Court of competent jurisdiction, that some other person was entitled to such lands or real property, estate

estate or interest. 7 V. c. 11, s. 26, as amended by 19, 20 V. c. 45.

26. No enrollment of any deed conveying any lands or other real property, or any estate or interest therein, to such Principal Secretary of State as aforesaid, shall be necessary to vest the same in him, in trust as aforesaid; But such Principal Secretary of State may at his option cause any deed or instrument, not being a notarial instrument, relating to any lands or real property vested in him to be enrolled, upon payment of the usual fees, in the office of the Provincial Registrar, without it being necessary for him to produce to that officer any proof of the execution of such deed or instrument; And a copy of such enrollment signed by the Provincial Registrar, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed or instrument in any Court of Law and Equity, and on every occasion shall have the same force and effect to all intents and purposes, as such deed, instrument or document would have, if the same were respectively produced and shown forth. 7 V. c. 11, s. 27, as amended by 19, 20 V. c. 45.

Enrollment of Deeds to Principal Secretary of State.

CHANGING TENURE OF LANDS.

27. And whereas it is expedient that such Principal Secretary of State as aforesaid, should have the power of freeing lands, or real property vested in him from all seigniorial rights, burdens and charges; Therefore, such Principal Secretary of State may pay or tender to the Seignior, within the term of whose Seigniority are situate any lands, or real property vested in him and not theretofore freed from such burdens, such sum as at the legal rate of interest would produce annually a sum equal to the *cens et rentes*, payable annually on such lands or real property, and a further sum equal to one fifth part of the price then last paid for the same, over and above all *lods et ventes* and arrears which may then have accrued and be due, and on such payment or tender, such lands or other real property shall be for ever after freed from all Seigniorial rights, burdens and charges, and if thereafter conveyed to any other party by such Principal Secretary of State, shall be held *en franc aleu roturier* for ever. 7 V. c. 11, s. 28, as amended by 19, 20 V. c. 45.

Principal Secretary of State to have the right of freeing lands held by him from Seigniorial charges.

BRINGING SUITS, EXECUTING DEEDS, &C.

28. Such Principal Secretary of State as aforesaid, may bring, prosecute and maintain any action of ejection, or other actions and proceedings, either in law or equity for recovering possession of any lands or other real property vested in him, or to which he may become entitled under the provisions of this Chapter, or otherwise howsoever, and may distrain or sue for any arrears of rent or any other dues of any kind, due for

Principal Secretary of State empowered to bring actions in matters relative to property held by him.

or in respect thereof, under any parol, or other demise, grant or concession from such Secretary of State or from the said Principal Officers of the Ordnance, or from Her Majesty, or of any person or Officer acting for or on behalf of Her Majesty, or of any party holding such lands or real property in trust for Her Majesty, and may also bring, prosecute and maintain any other action, suit or proceeding in law or equity in respect of any such lands or other real property, or of any right or interest therein, or of any trespass or encroachment committed thereon, or damage or injury done thereto,--and also upon all covenants and contracts whatsoever, made by, to, or with such Principal Secretary of State or the said Principal Officers, and in any way relating to such lands and real property, or to the service of the War Department, or the defence of this Province ;--And such Principal Secretary of State may also bring, prosecute and maintain any other action, suit or proceeding in law or equity, civil or criminal, concerning the goods or chattels, stores, moneys or other property under the care, control or disposition of the said Principal Secretary of State,--And in every such suit, action or other proceedings such Principal Secretary of State shall be called " Her Majesty's Principal Secretary of State for the War Department," without naming him ; And such Principal Secretary of State may by the said name be sued, impleaded or prosecuted, and may answer and defend any suit, action, prosecution, or proceeding brought or instituted against them in any Court of Law or Equity in this Province, by any person or party whomsoever ; And no suit, action or other proceeding to which such Principal Secretary of State is a party, shall abate, or be discontinued, or interrupted by the death, resignation or removal of such Principal Secretary of State. 7 V. c. 11, s. 30, as amended by 19, 20 V. c. 45.

Style by which the Principal Secretary of State may sue.

How suits are to be brought against the Principal Secretary of State, and service of process therein regulated.

29. All suits, actions or proceedings to be brought or instituted against such Principal Secretary of State, may be brought or instituted in the Court within the local jurisdiction whereof the lands or other real property to which such suits, actions or proceedings may respectively relate is situate or the cause of action has arisen,--And service of any process, order, notice or other document required to be made in any suit, action or proceeding to which such Principal Secretary of State is a party, shall be deemed to be validly made upon him by leaving a true copy thereof at the Office of the respective Officers of the War Department within the local jurisdiction of the Court in which such suit, action or proceeding is brought or pending, or if there be no such Office within the jurisdiction of such Court, then at the Office of the Senior Civil Officer of the said Department within such jurisdiction. 7 V. c. 11, s. 31, as amended by 19, 20 V. c. 45.

He may recover costs.

30. In all suits, actions and other proceedings at law or in equity, in which a verdict passes, or a judgment or decision is

is given for, or in favor of such Principal Secretary of State as aforesaid, he shall in addition to all damages to which he is entitled, have judgment for his full costs and charges in such suits, actions or proceedings, to be assessed and taxed against the defendant or other opposing party, and to be re-
 15 covered and levied in the same manner and form as they might have been assessed, taxed, recovered and levied in favor of any private party, and in all cases of judgments or decisions given against such Principal Secretary of State, he shall pay
 20 full costs and charges to the successful party. 7 V. c. 11, s. 32, as amended by 19, 20 V. c. 45.

31. Nothing herein contained shall be taken to defeat or abridge in any such suit, action or other proceeding, the legal rights, privileges and prerogatives of Her Majesty,—But in all
 15 such suits, actions and other proceedings brought or instituted in the name of such Principal Secretary of State as aforesaid, and in all matters relating thereto, such Principal Secretary of State may claim, exercise and enjoy all the same rights, privileges and prerogatives which have been heretofore claim-
 20 ed, exercised and enjoyed in any suits, actions or proceedings whatsoever in any Court of Law or Equity, by Her Majesty or Her Royal Predecessors, in the same manner as if the subject matter of such suits, actions or other proceedings were vested
 25 in Her Majesty, and as if Her Majesty were actually made a party to the same: Provided that Her Majesty may, if so advised, proceed by information in the proper Court, or by any other Crown Process, legal or equitable, in any case in which
 30 such suits, actions or other proceedings might otherwise have been instituted by such Principal Secretary of State. 7 V. c. 11, s. 33, as amended by 19, 20 V. c. 45.

Her Majesty's privileges and rights of proceeding not to be abridged.

32. Such Principal Secretary of State as aforesaid, may give any notice and make any entry, claim or demand which it is requisite or expedient to give or make on behalf of Her
 35 Majesty, with a view to compel any tenant, lessee or occupier of any lands or other real property vested in such Principal Secretary of State, under the provisions of this Chapter, to quit or deliver up possession thereof, or to compel the performance
 40 of any covenant, contract or engagement relating thereto, or to recover possession on non-performance of any covenant, contract or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other
 45 notice and make any claim or demand, or to do any other act or thing which it is requisite to make, give or do, on behalf of Her Majesty, touching or concerning any such lands or other
 50 real property, or any right, title or interest therein, and the same, being so made, given or done, shall be valid and effectual to all intents and purposes whatsoever. 7 V. c. 11, s. 35, as amended by 19, 20 V. c. 45.

Power to give notices, make entries, &c., in matters relative to property held by him.

May depute all or any of his powers under this chapter to such persons or officers as he may think proper.

Power of those deputed to remain notwithstanding the removal, &c., of the Secretary of State.

Secretary of State not to be personally responsible.

Act 7 V. c. 11, repealed as to lands transferred to the Province.

33. Such Principal Secretary of State as aforesaid, may from time to time, and as occasion requires, authorize and empower any person or persons, or any Officer or Officers, by his or their name or title of Office, to exercise and execute all or any of the powers, authorities and duties, or to perform and do and execute any acts, deeds, matters and things which by virtue of this Chapter, such Principal Secretary of State may exercise, execute, perform or do, as validly and effectually as such Principal Secretary of State might exercise, execute, perform and do the same, and may revoke such authority at pleasure;—And such authority shall, notwithstanding the death, resignation or removal from office of the Principal Secretary of State who gave the same, remain in force as if given by such Principal Secretary of State for the time then being, until revoked by the Principal Secretary of State for the time being. 7 V. c. 11, s. 35, as amended by 19, 20 V. c. 45.

34. Nothing contained in this Chapter, or contained in any covenant, contract, lease or other instrument hereby authorized to be entered into, made, taken or executed by such Principal Secretary of State as aforesaid, or by any person or officer acting under him, shall extend to charge the person of such Principal Secretary of State, person or officers, executing such covenant, contract, lease or other instrument, or their heirs, executors, administrators or other legal representatives, or their or any of their own proper lands and tenements, goods or chattels with the performance of any of the covenants, conditions and agreements in such covenants, contracts or lease, or other instrument entered into on the part of such Principal Secretary of State for the public service, and by his name of office as aforesaid; nor shall any Officer of the War Department be personally liable, nor shall any property of such Officer be liable to any legal process or execution in such suits, actions or other proceedings as aforesaid. 7 V. c. 11, s. 37, as amended by 19, 20 V. c. 45.

35. With respect to all lands and other real property comprised in the second Schedule to the Act respecting the Ordinance Lands transferred to the Province, which are hereby vested in Her Majesty for the benefit, use and purposes of this Province, the said Ordinance Vesting Act, and every clause, matter and thing therein contained, is and are repealed. 19, 20 V. c. 45, s. 9.

SCHEDULE

REFERRED to in this Chapter, being the Schedule of Military Lands in Canada, to be vested in one of Her Majesty's Principal Secretaries of State.

QUEBEC..... } The Citadel of Quebec, Fortifications, Glacis, Barracks, Lands with the appurtenances thereunto in any manner belonging, and the Barracks called the Jesuit Barracks, and the several Public Offices occupied for the various Military purposes, and all other Military properties at that station.

MONTREAL..... } The Barracks, Public Offices Lands heretofore held or purchased by the Ordnance for the erection of Barracks or for the defence of the Province, together with the Island of Saint Helens in the River Saint Lawrence, as heretofore held by the Principal Officers of the Ordnance, for various Military purposes, with the exception of a parcel of land at Longueuil which has been purchased for the purpose of a *tête de pont*, which is to be retained until an adequate quantity of land is substituted by the Province in lieu thereof, in the vicinity of the projected Bridge across the Saint Lawrence; and also with the exception of the Old Barracks at Montreal, which are to be retained until Barracks shall have been constructed for the accommodation of one thousand men, on a site to be approved by the Military Authorities.

KINGSTON..... } All the Military Works on the east and west of the Harbour and the lands connected with them not named in the Second Schedule.

NIAGARA..... } Fort Mississagua with its Glacis and other appurtenances.

SOREL..... } The Barracks, Government Cottage and land required for defence.

Schedule to 19, 20 V. c. 45.

C A P .

C A P . X X X V I I .

An Act respecting Lands and Real Property held by the Imperial Authorities for the Naval Defence of the Province.

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

PROPERTY VESTED IN ADMIRALTY COMMISSIONERS.

Lands vested in the Commissioners of the Admiralty.

1. All docks, dock-yards, arsenals, piers, wharves, quays, slips, messuages, lands, lands covered with water, beaches, beds of rivers, canals, roads and works connected therewith, tenements, estates and other hereditaments, real property, rights, easements and servitudes whatsoever, (all which things shall be intended by the words "Lands and other Real Property" wheresoever they occur in this Act) within this Province, and immediately before the passing of the Act 14, 15 V. c. 17, (30th August, 1851) vested in Her Majesty, the Lord High Admiral or Commissioners for executing the office of Lord High Admiral or Commissioner or commissioners in trust for Her Majesty, set apart, used or occupied for purposes connected with the naval defence of this Province or any other the purposes aforesaid, or placed under the charge or control of the officers of Her Majesty's Navy, or any of them, whether the same became vested in Her Majesty or Her Royal Predecessors for such purposes by the cession of this Province, or have been by them set apart or transferred from the lands, demesnes, or other real property of the Crown, or from the Clergy Reserves, or have been intended to be so set apart or transferred for the purposes aforesaid, or have heretofore been purchased for such purposes or any of them, by any officer or other person whomsoever for any such purpose, and paid for out of funds provided for that purpose by the Parliament of the United Kingdom, and surrendered or conveyed to Her Majesty or Her Royal Predecessors, or to some person in trust for Her or them, or have been set apart or transferred, or have been taken for any such purposes under the authority of any Act or law in force in this Province, or in any part thereof, by whatsoever mode of conveyance the same have been purchased and taken, and whether in fee or absolute property, or for any life or lives or term or terms of years, or for any lesser interest, or *à titre de cens*,—and more especially, but without intending that the enumeration or specification thereof should exclude any other lands or real property within the descriptions aforesaid, the lands and other real property mentioned and described in the schedule to this Chapter annexed, and all such lands and other real property, and all others which, having been acquired and purchased or taken for the

the Crown, and the price or compensation thereof paid out of funds provided by the Imperial Parliament, Her Majesty shall be pleased to direct to be vested as hereinafter mentioned, and all erections and buildings, which now are erected or built thereon, whether before or after the said 30th day of August, 1851, together with the rights, members and appurtenances to the same respectively belonging,—and also all the moveable and personal property of Her Majesty held or used for the services and purposes aforesaid, or any of them, are and shall be vested and shall remain vested in the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, for the time being, and their successors in the said office for ever, according to their respective nature and quality, and the several estates and interests therein, subject to the provisions of this Chapter, and in trust for Her Majesty, Her Heirs and Successors for the service of the said department, or for such other services as Her Majesty, Her Heirs or Successors, or the said Commissioners, for the time being, may direct :

2. But nothing in this chapter shall extend to vest in the said Commissioners any lands or buildings which have been purchased or erected for provincial purposes with funds provided by the Legislature of this Province, or of either of the late Provinces of Upper or Lower Canada, unless the same have been lawfully purchased by, and conveyed to the said Commissioners under the provisions of some Act or Law in force in this Province, or any lands or buildings belonging to the Civil Government of the Province, notwithstanding that the same may have been under the charge and control, or in the use or occupation of the Lord High Admiral or Commissioners of the Admiralty, or any subordinate or other branch of the Naval Department or any Officer or Officers thereof ;

3. And nothing in this Chapter shall extend or be construed to extend to vest in the said Commissioners any lands which before the said 30th day of August, 1851, had been granted by Her Majesty or Her Royal Predecessors to any other person or party, unless the same have been, subsequently to such grant lawfully purchased, acquired or taken for the purposes of the said Naval Department of the public service, nor to impair, diminish or affect any right, title or claim vested in or possessed by any person or party on the said day in or upon any lands or real property whatsoever ; nor to give the said Commissioners any greater or better title to any lands or real property than was then vested in the Crown, or in some person or party in trust for the Crown to the same. 14, 15 V. c. 67, s. 1.

4. Upon the death, resignation, or removal of any Lord High Admiral, or Commissioners for executing the office of Lord High Admiral of the said United Kingdom, or any of them, all lands, and other real property theretofore vested in or held by

On death or resignation of Lord High Admiral or Commission-

ers, lands to
vest in succes-
sors.

by him or them under the provisions of this chapter, shall become vested in and shall be held by his or their successors in office, according to the respective nature and quality of the said lands or other real property, and the several estates and interest in the same respectively, in trust as aforesaid. 14, 15 V. c. 67, s. 2.

Public lands
may be grant-
ed to Commis-
sioners.

3. All public lands necessary for the erection of any dock, dock yard, quay, slip, pier, wharf or arsenal, or for the free use of or approach to such work, or for preserving such work free from obstructions, may, on an Order of the Governor of this Province in Council, be freely granted by Letters Patent under the Great Seal of this Province to the said Commissioners in trust as aforesaid, and being so granted, may be disposed of by them in the same manner as other lands vested in them under this chapter;—and all other public lands may be purchased by and granted to and vested in the said Commissioners in trust as aforesaid, on the payment of the price thereof by the said Commissioners out of any funds provided for that purpose by the Imperial Parliament. 14, 15 V. c. 67, s. 3.

Leases, &c.,
now existing
confirmed.

4. Any lease or conveyance, or any duly authorized contract for any lease or conveyance of any part of the lands or other real property vested in the said Commissioners, or of any estate or interest therein, made or entered into before the said 30th August 1851, by any officer or person under whose control such lands or property were placed, or in whom the same were vested in trust for the Crown, shall be held good and valid by the said Commissioners, who shall be bound to ratify and confirm the same, and to execute all deeds and instruments necessary for that purpose, on the terms and conditions on which such lease or conveyance or contract was made. 14, 15 V. c. 67, s. 4.

Power to sell
or dispose of
property vest-
ed by this
chapter.

5. The said Commissioners may sell, exchange, or in any manner dispose of, or let or demise any lands or other real property vested in them, under this chapter, or any estate or interest therein so vested, or any of the said moveable or personal property hereby vested in them, either by public auction or by private contract, and may convey, surrender, assign, or make over, grant, demise or deliver the same (as the case requires) to any party willing to take the same in exchange or otherwise; And they may also grant, dispose of, and do any other matter or thing in relation to any such lands or other real moveable or personal property, as the said Commissioners deem beneficial for the public service and conducive to the better management and use of the property hereby vested in them, which might be done by any person having an estate or interest in the same of the same nature as that vested or held by the said Commissioners in trust as aforesaid. 14, 15 V. c. 67, s. 5.

6. When any moneys arise or are produced by the sale or exchange, demise or disposal of any such lands, or other real property as aforesaid, sold or exchanged, demised or disposed of under the provisions of this chapter, such moneys shall be paid by the purchaser, or the person making such exchange, or to whom the same are demised or disposed of, to such person or officer as the said Commissioners appoint to receive such moneys, for such purposes as Her Majesty may direct; and the receipt of such person or officer as aforesaid (such receipt being endorsed or written upon or subjoined to the conveyance, surrender or assignment, lease or other instrument, or an authentic copy thereof,) shall effectually discharge the purchaser or person by whom or on whose account such moneys are paid. 14, 15 V. c. 67, s. 6.

Moneys arising from sale, &c., of property, to be paid as Commissioners may direct.

Act

SETTING OUT AND ACQUIRING LANDS REQUISITE FOR NAVAL DEFENCE.

7. The said Commissioners, and their Surveyors and workmen may,—at any time or times during the day, upon giving seven days' notice in writing for the first time, and afterwards and from time to time forty-eight hours' notice in writing, such respective notices to be given either to the owner or occupier of the lands in question, or to be posted up in some conspicuous part of such lands,—enter into and upon any lands within this Province, for the purpose of surveying and valuing the same lands, without being deemed trespassers, and without being subject or liable to any fine, penalty or punishment on account of entering or continuing upon the said lands, or any part or parts thereof, for the purposes aforesaid. 14, 15 V. c. 67, s. 7.

Commissioners may enter upon and survey lands.

8. The said Commissioners may, from time to time, contract for the purchase of and take for and on behalf of Her Majesty, any lands or other real property, or any lease for or other interest in the same, which are in their judgment desirable to be purchased or taken for the service of the said Naval Department of Her Majesty's service, or the Defence of this Province, upon such terms as to the said Commissioners for the time being seem meet, and may enter into any contracts necessary for that purpose;—and all such lands or other real property, estate, or interest therein so to be purchased, shall be conveyed, granted or surrendered to the said Commissioners in ~~them~~ as aforesaid. 14, 15 V. c. 67, s. 8.

Commissioners may take conveyances, and make contracts.

9. All persons, bodies politic or corporate, or ecclesiastical or civil, and all trustees and feoffees in trust for charitable and other purposes, and all executors, administrators and curators, not only for and on behalf of themselves, their successors, heirs, executors, administrators and curators respectively, but also for and on behalf of *cestuique* trusts, whether infants, *femes-covert* idiots, lunatics or persons not born or not ascertained, or out of this Province :

Parties empowered to sell.

- Tenants for life.** 2. And also all tenants for life, or for years absolute or determinable upon any life or lives, or in substitution (*grevés de substitution*) or otherwise ;
- Persons having a qualified estate, &c.** 3. And all persons having any other description of any partial or qualified estate or interest, not only for and on behalf of themselves, their executors, administrators, curators and issue, but also for and on behalf of the persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, or where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, are not ascertained, or are incapable of contracting or settling ;
- Guardians, &c.** 4. And all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they are committees, and the executors, administrators, curators and issue of such wards, wives or persons respectively ;
- Married woman, &c.** 5. And all *femes-covert* entitled in their own right to any such lands or to dower or other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators, curators and issue ;
- The same.** 6. And also where such wards, wives, persons or *femes-covert* respectively, are tenants for life or in tail, or for years absolute or determinable upon any life or lives, or otherwise, or have any other description of partial or qualified property, estate or interest, such guardians, husbands, committees, *femes-covert*, on behalf of the person or persons on behalf of whom such wards, wives, persons or *femes-covert* respectively, if of full age, unmarried, or of sound mind, might have contracted for the sale and have sold the same lands or any of them ;
- Other parties.** 7. And all and every other persons and person whomsoever, seized or possessed of, or interested in all or any of the said lands, or entitled to any subsisting estates, leases, terms, shares and interests therein, which the said Commissioners think necessary for the public service---
- Power to contract.** 8. May contract and agree with the said Commissioners for the absolute sale to them of all or any of the said lands, and all estates and interests therein, may convey the same and the fee simple or absolute property thereof to the said Commissioners, for such compensation, equivalent or satisfaction in money or lands, or any estate or interest in lands, or partly in money and partly in lands, or any estate or interest in lands, as to the contracting parties seems expedient and reasonable ;
- Contracts, &c., to be valid.** 9. And all contracts, agreements, acts conveyances and deeds made or executed by such contracting, conveying or selling persons

persons as aforesaid, shall be as valid and effectual as if such persons were the absolute owners, and seized in fee simple of the lands so conveyed by them respectively, and such persons are hereby indemnified for or in respect of any such sale which they respectively make in pursuance of this ~~chapter~~ 14, 15 V. c. 67, s. 9.

Act

10. The said Commissioners may give in exchange for any lands taken for the purposes of this ~~chapter~~, any lands in the same vicinity belonging to Her Majesty and vested in the Principal Secretary of State for the War Department, with the previous consent of the said Secretary. 14, 15 V. c. 67, s. 10, ~~as amended by~~ 19, 20 V. c. 45.

Commissioners may give lands in exchange, &c.

Act

11. After the setting apart, grant, purchase, conveyance, demise or ~~taking~~ thereof, all lands and other real property, estate or interest therein at any time granted to or purchased or taken by the said Commissioners, or by any person or persons for them, for the service ~~of the~~ said Naval Department, or surrendered to or taken by Her Majesty, or purchased or taken by any person in trust for Her Majesty for such service under this ~~chapter~~, or of any other law, and all erections and buildings then or thereafter erected or built thereon, with the rights, members and appurtenances to the same respectively belonging, shall in like manner be, become and remain vested in the said Commissioners and their successors in the said office according to the nature and quality of the said lands and real property, or the several and respective estates and interest of and in the same respectively and in trust as aforesaid. 14, 15 V. c. 67, s. 11.

Lands hereafter purchased to be vested in Commissioners.

12. Every person hereinbefore capacitated to contract for and sell and convey any such lands as aforesaid, and any owner thereof, or of any share or interest therein, or charge thereon, may accept and receive such satisfaction and recompense for the value thereof, and such person or owner, and also any tenant or other occupier of any such land entitled to any compensation for any injury or damage sustained on account of the execution of this ~~chapter~~, or in any wise relating thereto,—may accept and receive such sum of money in respect thereof as is agreed upon between them respectively and the said Commissioners, and in case the said Commissioners and the parties interested in such lands or fixtures, good will or improvements, or sustaining any such injury or damages as aforesaid, cannot or do not agree as to the amount or value of such recompence, satisfaction or compensation, the same respectively shall be ascertained and settled by a Jury in manner hereinafter directed. 14, 15 V. c. 67, s. 12.

Compensation for lands, how fixed.

Disputes to be settled by Jury.

13. Before the expiration of three ~~calendar~~ months next after notice in writing from the said Commissioners for the time being,

Before the end of three months after

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been occupied for the public service, as the said Commissioners think reasonable, or as is agreed upon in that behalf:

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And if the owner or person authorized to act on his behalf is not willing to accept the compensation so offered, the said Commissioners may apply to and require any two Justices of the Peace for the district, county, city or place, to settle and ascertain the compensation which ought to be made for such damages or injury as aforesaid, and such Justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof, and the amount so ascertained shall be forthwith paid by the said Commissioners to the person or party entitled to the same: But nothing in this ~~Chapter~~ contained shall extend to alter, prejudice or affect any agreement entered into by the said Commissioners with the owner of any land or real property, or any person authorized to act on his behalf, with regard to any such building or erections, but every such agreement shall remain valid and effectual according to the intent and purport thereof. . 14, 15 V. c. 67, s. 14.

Compensation for damages, how determined.

Act

15. If any person hereby or otherwise capacitated to sell any land so required by the said Commissioners, or interested in any share or estate therein, or charge thereon, or in any improvement, good will, fixtures or damages, neglects or refuses to treat, or does not agree in the premises, or by reason of absence or disability is prevented from treating with the said Commissioners for the sale and disposal of his estate and interest therein, or the estate and interest which he is hereby capacitated to sell, or for compensation for any such good will, fixtures, damages or improvements as aforesaid, or cannot be found or known, or does not produce or evince a clear title to the premises he is in possession of, or to the interest he claims, to the satisfaction of the said Commissioners, or, by reason of any impediment or disability not provided for by this ~~Chapter~~, is incapable of effectually making such agreement or sale thereof, or in any other case where agreement for compensation for any good will, improvements or fixtures, or for damages incurred in the execution of this ~~Chapter~~, cannot be made, or if the said Commissioners are not apprised to their entire satisfaction who is the person entitled or by this ~~Chapter~~ capacitated to sell,—then on the requisition of the said Commissioners, the Governor of this Province, being satisfied of the facts aforesaid, may require any Sheriff of the district, county, city, town, or place where such lands or other real property lie, to cause the said Commissioners to be put in possession thereof, which such Sheriff shall accordingly do by issuing a warrant under his hand and seal, taking with him sufficient assistance:

Proceedings, if parties refuse to agree upon compensation.

Act

Act

Act

2. And the said Sheriff or his deputy shall summon twenty-four persons qualified to be Special Jurors, who stand first in order on his lists, to be and appear at the Court House of the county or district, on a day and at an hour to be named in such warrant

Sheriff to summon Jurors.

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warrant, and not being less than ten days after the Sheriff has put the said Commissioners or such person or persons as they may appoint in manner in the forty-eighth section hereinafter mentioned, into possession as aforesaid, and of which day and hour he shall give notice in writing to the owner or proprietor, and to all persons whom he finds on the premises when he gives possession thereof ;—and at the time so appointed, a Jury shall be formed out of the Jurymen so summoned, allowing to the parties, if present, their lawful challenge to any Juror, but not to the array ;

Proceedings of the Jury.

3. And the said Jury being sworn before the Sheriff (or his deputy) authorized to issue the warrant of possession, (and such Sheriff or his deputy may administer all necessary oaths, as well to the Jurors as to the witnesses to be produced by the parties,) shall, on hearing the witnesses and the evidence adduced before them, inquire of and determine the price and compensation which shall be paid by the said Commissioners, either for the absolute purchase of the lands, or other real property in question, or for the possession or use thereof, as the case may be, and their verdict shall be certified by the Sheriff or his deputy as aforesaid, with the costs to be ascertained as hereinafter mentioned. 14, 15 V. c. 67, s. 15.

If sufficient Jurors do not attend, proceedings may be adjourned.

16. In case a sufficient Jury to take the inquisition does not appear upon the return of the Sheriff's summons, the said Sheriff or Deputy Sheriff shall, from time to time, until a sufficient Jury has been obtained by the means aforesaid, adjourn the inquiry to any future day not exceeding fourteen days nor less than four days from the adjournment thereof,—and when a sufficient number of Jurors shall appear, he shall proceed to swear and impanel twelve of them, who shall thereupon inquire as aforesaid. 14, 15 V. c. 67, s. 16.

No party to be heard unless he has sent in statement of claim.

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17. No person shall be heard before the said Sheriff or Deputy Sheriff and Jury, touching the matter of the inquiry, unless such a statement as hereinbefore mentioned, of the particulars of every such claim, and how and in what manner the amount thereof is made out and computed, has been given to the Commissioners by or on behalf of such person, within three calendar months after such notice in writing of its being the intention of the said Commissioners to purchase and take such lands, and all persons who do not give such statement within such period as last aforesaid, or do not appear to any inquisition, shall, as well as all other persons, be bound by such verdict and judgment as aforesaid. 14, 15 V. c. 67, s. 17.

Act
Act

Willful false swearing, &c. to be perjury.

18. Every person who, upon any examination taken by virtue of this Chapter, wilfully and corruptly gives false evidence either on oath or affirmation, before any Jury, or before any Justice of the Peace acting as such in the execution of this Chapter, shall be deemed to be guilty of perjury, and may be prosecuted

prosecuted for the same, and upon conviction thereof shall be subject to such and the same pains and penalties as persons guilty of wilful and corrupt perjury are or shall be by the laws in force subject or liable to. 14, 15 V. c. 67, s. 18.

Act 5 19. Every inquisition, verdict and judgment taken or given under this Chapter, shall be deposited with the Clerk of the Court within the jurisdiction of which the lands being the subject of dispute are situate, to be kept and preserved by him among the records of such Court, and shall be deemed records to all intents and purposes whatsoever, and the same, or copies thereof certified by such Clerk for the time being, shall be allowed to be good and conclusive evidence in all Courts and proceedings whatsoever; and all persons may inspect the same, paying for every such inspection the sum of ~~One Shilling~~, and may take or make copies thereof or extracts therefrom, paying for every copy or extract made by such Clerk with his certificate thereon, after the rate of ~~Six Pence~~ for every one hundred words. 14, 15 V. c. 67, s. 19.

Inquisition to be deposited of record.

Copies, &c.

Twenty cents

ten cents

Act

20 20. If any Jury summoned pursuant to this Chapter, give in a verdict or assessment for more money as a recompense, compensation or satisfaction, for the rights, interest or property of the parties interested in any such lands, or for any such good will, improvements, fixtures, injury or damage as aforesaid, than has been agreed to be given or offered for the same in the aggregate by the said Commissioners, before the summoning and returning of such Jury,—or where by reason of absence or from any other cause, there is not or is not found any person legally capacitated to enter into any contract with the said Commissioners on behalf of Her Majesty,—then all the reasonable costs, charges and expenses of causing and procuring such recompense, compensation or satisfaction to be assessed by a Jury, shall be settled by the Sheriff or his Deputy before whom such claim has been tried or investigated, and shall be paid by the said Commissioners on behalf of Her Majesty:

In what cases the costs shall be borne by the Crown, or by the opposite party.

By the Crown.

2. But in every case in which any such Jury are of opinion that the statement delivered by the claimant of the manner in which any amount of moneys demanded as a recompense, compensation or satisfaction, has been computed and made up, did not give sufficient particulars to enable the said Commissioners to make a proper offer to such claimant, unless such claimant proves to the satisfaction of the Jury, that he, was not and could not be in possession of such additional information at the time the particulars referred to were furnished to the said Commissioners,—and in every case in which any such Jury give in a verdict or assessment for no more or for less money as such recompense, compensation or satisfaction as aforesaid, than has been agreed to or offered by the said Commissioners in the aggregate before the summoning and returning

By the opposite party.

Act

of the said Jury,—or in case no damages or less damages than those offered by the said Commissioners are given by the verdict, where the dispute is for damages only,—or where the causing or procuring such Jury to be summoned, has arisen from a refusal to treat or agree with the said Commissioners by any person whomsoever, who is by the provisions of this ~~Chapter~~ or otherwise legally empowered to treat,—then, all such costs, charges and expenses to be settled by such Sheriff or his Deputy in manner aforesaid, shall be paid to the said Commissioners on behalf of Her Majesty, by the said person so claiming, or entitled to such recompense, compensation or satisfaction, or refusing to treat and agree as before mentioned respectively;

Costs payable to the Crown may be deducted from the sum awarded.

3. And all costs, charges and expenses hereby directed to be paid to the said Commissioners on behalf of Her Majesty, shall be deducted and retained by them out of the moneys adjudged and assessed to be paid by them, as so much money advanced to and for the use of the person entitled to such money, if any, shall be deemed and taken to be a payment or tender of the whole sum or sums so adjudged or assessed, or in case no money or no sufficient sum of money is awarded or assessed to be paid by the said Commissioners, on behalf of Her Majesty, whereout such costs, charges and expenses can be deducted, then the same or the remainder thereof, shall be recovered by execution against the person, lands and goods of such party, to be sued forth out of the Court into which such proceedings shall be returned, as in the case of other judgments in favor of Her Majesty. 14, 15 V. c. 67, s. 20.

Amount of costs to be allowed.

21. The costs to be allowed and settled by such Sheriff or Deputy Sheriff as aforesaid, shall be,—to himself, for executing the warrant of possession and summoning the Jury, twenty shillings, and also such mileage for his necessary travel in causing such Jury to be summoned as are taxable in the Court of the highest jurisdiction of that section of this Province in which such lands lie, by any one of the Judges of such Court, or by the ordinary taxing Officer, for the travel required in summoning Special Jurors for the trials of issues in such Courts;—also to himself for swearing such Jury, presiding at the inquiry and receiving the verdict, forty shillings, together with necessary travelling expenses,—to each Juror sworn, ten shillings for each day on which the said Jurors shall be engaged on the said inquest or inquisition,—and a reasonable allowance to each material witness. 14, 15 V. c. 67, s. 21.

Payment of Jurors.

Commissioners may require proof in support of claims of lessors.

22. In every case in which any person claims any satisfaction or compensation for or in respect of any unexpired term or interest which he claims to be possessed of or entitled to, in any lands intended to be taken or used by the authority of this Chapter, under or by virtue of any demise or lease, or agreement for

for a demise or lease or grant thereof, the said Commissioners may require such persons to produce or shew the document in respect of which such claim for satisfaction or compensation is made, or the best evidence thereof in his power;—and if such document or such best evidence thereof as aforesaid is not produced or shewn to the said Commissioners or their Agent, within twenty-one days after the demand made by the said Commissioners, or any person by them authorized, the person claiming such satisfaction or compensation shall be considered or treated as a tenant at will. 14, 15 V. c. 67, s. 22.

PAYMENT OF PURCHASE MONEY, &c.

23. Every sum of money to be agreed upon or assessed as aforesaid, for the purchase of any lands required by the said Commissioners, or of any estate or interest therein, or for any recompense, compensation, or satisfaction as herein mentioned, (except as herein otherwise provided), shall be paid by the said Commissioners, either to the person thereunto entitled, or into Her Majesty's Public Provincial Treasury as hereinafter mentioned, as the case may require, on a clear title to the lands, estate or interest in respect of which the same are payable, being adduced and shewn to the satisfaction of the said Commissioners, or of their Counsel. 14, 15 V. c. 67, s. 23.

Purchase money, how to be paid.

24. If any money is agreed or assessed to be paid for the purchase of any lands lying within Upper Canada, to be taken or used by the said Commissioners by virtue of their powers under this Chapter, or any estate or interest therein, or for any recompense, compensation or satisfaction under this Chapter, which any person, tenant for life, or in tail, feoffee in trust, executor, administrator, curator, husband, guardian, committeee or other trustee, for or on behalf of any infant, lunatic, idiot, *feme-covert* or *cestuique trust*, or any person or persons whose lands so taken are limited in strict or other settlement, or any person under any other disability or incapacity shall be entitled unto, interested in, or hereby capacitated to sell,—or in case the lands or interest for the purchase whereof the same is agreed or assessed to be paid, are subject to, or charged or chargeable with any incumbrances, liabilities, claims or demands which cannot be or are not ascertained, got in, paid off or discharged,—then such money, if the sum is equal to or exceeds two hundred pounds, shall not be paid into the hands of the person or party who makes and executes the sale, exchange or other conveyance, warranty or quit-claim, but shall with all convenient speed be paid, together with the interest payable in respect of the same, if any, into Her Majesty's Provincial Treasury, to be placed to the credit of an account opened for that and similar purposes, in the Provincial Books of Account, under the name of Trust Deposit, and subject to the order, control and disposition of Her Majesty's Court of Chancery for Upper Canada, which

Purchase money exceeding £200, how to be dealt with in cases of parties unable to convey, &c.

which said Court, on the application of any party making claim to such money, or any part thereof, by motion or petition, may, in a summary way of proceeding or otherwise, as to the said Court seems meet, order the same to be laid out and invested in the public funds of the Province, or may order distribution thereof, or payment of the dividends or interest thereof, according to the estate, title or interest of the party making claim, or may make such other order in the premises as to the said Court seems proper, upon every which order of such Court a Warrant shall issue for the payment of such money according to the same. 14, 15 V. c. 67, s. 24.

Cases in U. C. in which compensation is between £25 and £200.

25. And in any case where such moneys as are lastly hereinbefore mentioned are less than Two Hundred Pounds currency, and exceed Twenty-five Pounds currency, the same shall not be paid into the hands of the person or party who makes and executes the sale, exchange or other conveyance, warranty or quit-claim, but shall, at the option of the party for the time being entitled to the rents and profits of the land or other real property purchased or taken, or of the guardian or committee of such party, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid, under the orders and directions of two Justices of the Court of Queen's Bench, or Common Pleas into the Public Provincial Treasury, as hereinafter mentioned, or otherwise, at the like option, shall be paid to three trustees nominated by the party making such option and approved by the said Commissioners, (such nomination being signified in writing, under the hand of the nominating and approving parties,) in order that such money may be invested in the public securities of the Province, and that such stock when purchased, and the dividends arising therefrom, may be applied in the manner herein directed, so far as the same may be applicable, without obtaining the order and direction of any Justices of either of the said Courts, and with the same effect as if such payment had been made under such orders and directions. 14, 15 V. c. 67, s. 25.

As to compensation for lands in L. C. taken from parties not having the absolute interest therein.

26. Provided always, that when any money shall have been agreed, or required by the verdict of any Jury to be paid by the said Commissioners for the absolute purchase or exchange of any land or other real property, within Lower Canada, or of any estate or interest in such lands or real property conveyed by or taken from any body politic or corporate, person or party, who without this chapter would have been unable legally to convey the same, or shall not have the absolute interest therein, such money shall not be paid into the hands of the person or party who makes and executes the sale, exchange, or other conveyance, or warranty or quit-claim, but the same shall be deposited, with a copy of the deed of sale, or exchange or other conveyance or of warranty or quit-claim, in the hands of the Sheriff for the District in which

which the lands or other real property lie,—and upon the granting of the receipt which such Sheriff shall grant to the said Commissioners, the land or other real property and estate therein conveyed by the said deed, shall become vested in the said Commissioners in trust as aforesaid :

2. And it shall be the duty of the said Sheriff, after the receipt of the said money, and on the application of any party claiming the same, or any interest therein, and filing such claim with the application, to make and insert during four months, in the *Official Gazette* of the Province, and also in one other public newspaper published in each of the Cities of Quebec and Montreal, a notice in both languages, containing the date and nature of the deed and conveyance, and the amount of money deposited, and a description of the lands or other real property to which such deed or conveyance relates, and calling upon all and every person or party who may be legally entitled to claim the whole or any part of the said money, or may be possessed of any rights, titles, hypothecs or interest which ought to be paid out of or secured upon the same, either personally or as duly representing some interested party, to file their claims, within thirty days after the expiration of the said four months, in the office of the said Sheriff, after which delay no claims shall be received or admitted ;

Sheriff to give notice in *Official Gazette*, &c.

3. And all married women entitled to dower not then open on such lands or real property, and persons duly representing minors, lunatics, idiots, or persons absent from the Province, having any right, title, interest or claim to or in the said money, and all parties having any such right, title, interest or claim in their own name, are hereby authorized to file their claims ; and the Superior Court sitting in the District with the Sheriff whereof the said claims are filed, shall hear and determine the same, and order a final distribution of the said moneys to or among the parties entitled to the same, or order the application or placing of the same or any part thereof so as to secure present and future rights, in the manner hereinafter mentioned in the twenty-eighth section of this chapter. 14, 15 V. c. 67, s. 26.

Persons entitled to file their claims.

27. Where any money so agreed or assessed to be paid as hereinbefore mentioned, for or in respect of lands, either in Upper or Lower Canada, does not exceed the sum of twenty-five pounds, the same shall be paid to the respective parties who would for the time being have been entitled to the rents and profits of the lands taken or used for the purposes of this chapter, or in respect of which such recompense, compensation or satisfaction shall be paid, for their own use and benefit ; or in case of coverture, idiocy, lunacy or other incapacity, then such money shall be paid to their respective husbands, guardians, curators, committees or trustees, to and for the use and benefit of the parties respectively entitled thereto. 14, 15 V. c. 67, s. 27.

As to payment of compensation amounting to not more than £25.

Case of parties refusing to accept compensation, or absent from the Province, &c., provided for.

28. In case any party to whom any money is agreed or assessed to be paid for the purchase of any lands to be taken or used by virtue of the powers of this chapter, or any estate or interest therein, or for recompense, compensation or satisfaction as aforesaid, refuses to accept the same, or cannot be found, or is absent from this Province, or refuses or neglects or is unable to make a title to and convey such lands, estate or interest, to the satisfaction of the said Commissioners, within twelve calendar months from the period of the value of the lands or amount of recompense, compensation or satisfaction being agreed on or assessed as aforesaid :
- The same. 2. Or if any party entitled to contract or agree for the sale of such lands, estate or interest is not known, or is absent from this Province, or refuses to execute any proper contract or conveyance for the sale thereof respectively, within the said twelve calendar months ;
- The same. 3. Then and in every such case, the said Commissioners may cause the money so agreed upon or assessed as aforesaid, to be paid into Her Majesty's Public Provincial Treasury, at the credit of the said Account of Trust Deposits, subject to the order, control and disposition of whichever of Her Majesty's said Courts shall, according to the Fifty-fourth section of this Chapter, have jurisdiction in the premises ;--which said Court, on the affidavit of any party making claim to such money or to any part thereof, by motion or petition, may, in a summary way of proceeding or otherwise, as to the said Court seems meet, order the same to be laid out and invested in the public funds of the Province, or order disposition thereof, or payment of the dividends or interest thereof, according to the estate, title or interest of the party making claim thereto, or may make such other order in the premises as to such Court seems proper ;
- Distribution of the money on application of parties and order of Court. 4. And upon the application of any person or party having any interest in the said money, any two Justices of the said Court, upon reading the said petition, and any declaration, deed or instrument filed with the same, and receiving such further satisfaction as they deem necessary, may in a summary way make and pronounce such orders and directions for paying the said money, or any part of the same, or for placing such part thereof as is principal in the public securities of this Province, or real securities, and for the payment of the interest or dividends thereof, or any part thereof, to the respective parties entitled to receive the same, or for laying out the principal or any part thereof in the purchase of lands or other real property, to be conveyed and settled to and for and upon the same uses, intents and purposes, as the lands or other real property for which such money is the compensation, stood settled at the time they were conveyed or taken as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said moneys or any part thereof, for the benefit

benefit of the party or parties entitled to or interested in the same respectively,—or for appointing any person or persons to be a trustee or trustees for all or any of such purposes,—or for requiring any security from any person to whom such moneys or any part thereof are paid or entrusted, as to the said Justices appear just and right ;—And all such orders and directions shall be obeyed by the proper officer of the Provincial Treasury, and the receipt of the person or party to whom he pays the said money or any part thereof, in obedience to such orders and direction, shall be the valid discharge of such Officer and of the said Commissioners for the moneys paid. 14, 15 V. c. 67, s. 28.

29. Upon payment or tender of the sums of money agreed upon between the parties, or awarded by a jury, for the purchase of any lands, or whenever any of the respective cases happen wherein such money is herein authorized to be paid in manner above mentioned by the said Commissioners, the said Commissioners may immediately enter upon such lands, and thereupon such lands, and the fee simple and inheritance thereof, and all the estate, use, trust and interest of all parties therein, shall thenceforth be vested in and become the property of the said Commissioners in trust for Her Majesty, for the purposes of this chapter :

Upon payment or tender of compensation, Commissioners may enter upon lands which shall be vested in them in trust for Her Majesty.

2. And when any money has been paid into the Public Provincial Treasury as aforesaid, the said Commissioners shall not be bound to see to the application thereof, and such payment or tender, or such deposit in the Public Provincial Treasury, shall in all respects, and to all intents and purposes, operations in the same manner as if a conveyance under the provisions of this chapter had been made of the lands in question to the said Commissioners ;

As to money paid into Provincial Treasury.

3. And in all cases whatsoever in which the said Commissioners have a right of entry under the provisions of this chapter (except a right of entry for the purpose only of making such survey and valuation as aforesaid,) and delivery of possession is refused or withheld, any one of the Judges of either of the Courts aforesaid may issue his Precept or Warrant to the Sheriff of the County or District in which such land is situate, to enter upon the lands the possession whereof is refused or withheld, and to take possession thereof and to deliver the possession of the same to such person as shall in such Precept or Warrant be nominated to receive the same, being a person appointed on that behalf by the said Commissioners ; and the said Sheriff shall take possession and deliver the same accordingly. 14, 15 V. c. 67, s. 29.

Warrant of entry on lands in certain cases.

30. When any question arises touching the title of any person to any money paid into the Public Provincial Treasury by the said Commissioners under this chapter, as recompense, compensation

Party in possession to be deemed entitled to the

compensation until such possession be proved to be wrongful.

compensation or satisfaction for any damage or injury to any lands purchased or used in pursuance of this chapter, or to any public securities of this Province to be purchased with any such money as herein mentioned, or to the interest or dividends of such public securities, or to any part of such money, public securities or dividends, or interest respectively,—the person who was in possession of such lands or in receipt of the rents and profits thereof, at the time of such purchase, or at the time when such damage or injury accrued, and all persons claiming under such person or under or consistently with the possession of him, shall be deemed to have been lawfully entitled to such lands according to such possession, and the said purchase money, awarded or tendered, shall be paid and disposed of accordingly, unless it be made to appear that such possession was a wrongful possession, and that some and what other person was lawfully entitled to such, or to some and what part of such lands, or to some and what estate or interest therein or charge thereon. 14, 15 V. c. 67, s. 30.

Where money paid into Provincial Treasury, Court may order as to payment of costs.

31. When the purchase money for any lands to be taken or used for the purposes of this chapter, or the money, paid for any such recompense, compensation or satisfaction as aforesaid, is paid into the Public Provincial Treasury as aforesaid, under this chapter, the Court having jurisdiction in the premises (if it thinks fit) may order the costs, charges and expenses attending any such motion, petition or application as aforesaid, and the proceedings to be had thereon, or so much of such costs, charges and expenses as the said Court deems reasonable under the circumstances of the case, together with the costs and charges of obtaining such order, to be paid by the said Commissioners, who shall from time to time pay such sums of money, in such manner and for such purposes as the said Court directs. 14, 15 V. c. 67, s. 31.

Deposit of money shall release lands from rents charged upon them.

32. Where the money awarded or tendered to be paid for any land used for the purposes of this chapter, are paid into the Public Provincial Treasury by the Commissioners in manner hereinbefore directed, in consequence of a good title not having been made to such lands to the satisfaction of the said Commissioners, by reason of the same lands respectively being subject, either alone or together with other lands required for the purposes of this chapter, to a rent payable to some person unable or unwilling to release therefrom the lands required to be used for the purposes of this chapter,—then and in every or any such case, the lands for the value of which the money to be paid into the said Provincial Treasury, together with the money (if any) to be paid for costs and charges under this chapter, is agreed or assessed to be paid, shall be and are hereby released and for ever discharged from such rent, and all claims and demands in respect thereof, and all powers and remedies for recovering the same, and the money to be paid into the Provincial Treasury shall be laid out and invested under

under the directions and with the approbation of the Court
 having jurisdiction in the premises, to be signified by an
 order made upon motion or petition to be preferred or made in
 a summary way by the person who would have been entitled
 5 to the rents and profits of the land for the value of which such
 moneys respectively have been paid as aforesaid, in the pur-
 chase of other lands, which shall be conveyed and settled,
 subject either alone or together with such other lands (if any),
 as the case may be, to such rent to the like uses, intents, trusts
 10 and purposes, and in the same manner as the said lands so to
 be used as aforesaid stood settled or limited, or such of them
 as at the time of making such conveyance and settlement are
 existing, undetermined and capable of taking effect,—and in
 the mean time and until such purchase is made, the said
 15 money shall, by order of the said Court, upon application
 thereto as aforesaid, be invested in the purchase of public se-
 curities in this Province, and in the mean time and until such
 public securities are ordered by the said Court to be sold for
 the purposes aforesaid, the interest, dividends and annual pro-
 20 duce thereof, shall from time to time be paid, by order of the
 said Court, to the person who would for the time being have
 been entitled to the rents and profits of the said lands hereby
 authorized to be purchased in case such purchase and settle-
 ment were made,—and the lands so to be purchased and set-
 25 tled shall be, either alone, or as the case may be, together with
 the said other lands not required for the purposes of this ~~chapter~~,
 and already subject to the same rent, and shall in the convey-
 ance and settlement thereof, be declared to be subject there-
 30 unto in the same manner, to all intents and purposes, as the
 lands taken or to be taken for the purposes of this ~~chapter~~
 as aforesaid were subject thereto, and the person to whom
 such rent is payable shall have such and the same powers and
 remedies for enforcing the payment thereof or of any part
 thereof, out of or upon the lands to be comprised in such con-
 35 veyance and settlement and declared to be subject thereto as
 he would have been entitled to if such rent had originally been
 reserved out of or charged upon the same, either alone, or as
 the case may be, together with such other lands not required
 as aforesaid, instead of the lands to be taken for the purposes
 40 of this ~~chapter~~, or the same lands and such other lands (if any),
 as aforesaid, in the same manner to all intents and purposes as
 such rent was reserved out of or charged upon the lands so
 taken either alone or together with the other lands subject
 45 thereto, as the case may be,—and in the meantime and until
 such purchase shall be made, it shall be lawful for the said
 Court, upon application thereto as aforesaid, to order any part
 of the interest, dividends and annual produce of the public
 securities in which the said last mentioned money is invested,
 50 to be paid from time to time to the person for the time being
 entitled to the said rent in discharge thereof or part thereof, as
 the case may be. 14, 15 V. c. 67, s. 32.

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When lands purchased are liable to a rent, &c., jointly with other lands, how such rent, &c., may be released or apportioned.

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33. Where any lands purchased or wanted or intended to be purchased by the said Commissioners on behalf of Her Majesty, are charged or subject, solely or jointly with other lands not intended or wanted to be purchased, to or with any rent service, rent charge or chief rent or other rent, payment or incumbrance, the said Commissioners may (if they think proper) agree for the release of the lands so purchased or wanted, or intended to be purchased, from such rent, payment or incumbrance, for such gross sum as may be agreed upon between the said Commissioners and the party who, under the provisions of this chapter, agrees to sell or apportion the same, and which agreement may be entered into by all persons absolutely entitled, and by all persons by this chapter authorized, capacitated and empowered to sell or convey lands,—and the moneys to be paid shall be paid and applied in manner hereinbefore directed with regard to the purchase money in the sale of lands :

In case of difference as to the value of rent, &c.

2. And in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a Jury if required, in like manner as the price of land is by this chapter directed to be settled, in case of dispute as to the value thereof, and which Jury shall assess and determine the value of the rent, payment or incumbrance affecting the lands purchased or intended to be purchased for the purposes of this chapter, and shall also where necessary or convenient, apportion the rent, payment or incumbrance affecting the lands, jointly subject to such rent, payment or incumbrance as hereinbefore mentioned, according to the respective values of the lands purchased or intended to be purchased, and of the lands not purchased or intended to be purchased by the said Commissioners.—And all contracts made by and between the said Commissioners on behalf of Her Majesty, and any such party as aforesaid respecting such release or apportionment, shall be valid and effectual in the law, and all contracts or assurances made with or to the said Commissioners respecting such release, shall extinguish the whole or a proportionate part of such rent, payment or incumbrance, as the case may be ;

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3. But where the party entitled to such rent, payment or incumbrance considers the remaining part of the lands jointly subject a sufficient security for such rent, payment or incumbrance, and is willing to release the lands so purchased therefrom, then and in such case, the person absolutely entitled to the said rent, payment or incumbrance, or by this chapter authorized, capacitated or empowered, to apportion such rent, payment or incumbrance, or to release the lands so purchased or intended to be purchased therefrom, may, with the consent of the said Commissioners, and also of the owner of the lands so jointly subject as aforesaid, (although such owner only has a limited or partial interest in such last mentioned lands,)

lands,) release the lands so purchased or intended to be purchased as aforesaid from the rent, payment or incumbrance affecting the same, as aforesaid, jointly with other lands, on condition or in consideration of such other lands continuing or remaining solely and exclusively subject to such rent, payment or incumbrance ;

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4. And when any of the lands purchased by the said Commissioners are released from a part only of any rent, payment or incumbrance affecting the same jointly with other lands, such last mentioned lands shall be charged only with the remainder of such rent, payment or incumbrance, and such apportionment shall not prejudice the title to the remaining part of such rent, payment or incumbrance, or the remedies for such remainder, but the same shall at all times thereafter remain as effectual as if the lands not so purchased had been originally charged with that amount only ;

When part of the lands are released.

5. And when a part of any rent, payment or incumbrance is released, the said Commissioners may, on tender for that purpose by any deed or instrument creating or transferring the remainder of such rent, payment or incumbrance, cause to be endorsed a memorandum on such deed or instrument, declaring what part of the lands subject to such rent, payment or incumbrance, have been purchased or intended to be purchased by virtue of this ~~chapter~~, and what proportion of the said rent, payment or incumbrance has been released, and also declaring the amount of the rent, payment or incumbrance which shall continue payable, and such memorandum shall be evidence in all Courts of the facts therein stated, but shall not exclude any other evidence of the same facts. 14, 15 V. c. 67, s. 33.

When a part of any rent, &c., is released, &c.

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34. In all cases in which a part only of any lands comprised in any agreement for a lease, or any lease, and subject to any rent, are required for the purposes of this ~~Chapter~~, the rent payable in respect of any such lands shall, (if the said Commissioners think fit) be apportioned between so much of the same lands as shall be acquired for the purposes of this ~~Chapter~~, and the residue of such lands, and such apportionment shall, in case the same is not settled by agreement between the parties, be ascertained and settled by the verdict of a jury, if required, in like manner as the price of any lands to be taken in pursuance of this ~~Chapter~~ is directed to be settled in case of dispute as to the value thereof ;--And in case such apportionment is settled by agreement between the parties, such agreement shall be made with, and shall not be valid without the consent and approbation of the lessor of such lands ;--And any person hereby or otherwise capacitated or authorized to sell lands, and who is a lessor, shall be capacitated to assent to such apportionment, and to bind the property in respect of such apportionment ;--After such apportionment, the tenant or lessee of such lands comprised in

Where a part only of leased lands are taken, rent may be apportioned.

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in such lease or agreement for lease shall, as to all future accruing rent, be liable only to so much of the rent reserved in such lease or agreement for lease as is apportioned in respect of the lands not required for the purposes of this Chapter, and the lessor of the same lands shall have all such and the same remedies for recovering and compelling payment of the rent so apportioned in respect of the lands not required for the purposes of this Chapter, as before such apportionment he had or was entitled to in respect of the rents reserved, or agreed to be reserved in such lease or agreement for lease as aforesaid; and such apportionment shall not prejudice or affect any of the covenants, conditions or agreements in such lease or agreement for lease contained. 14, 15 V. c. 67, s. 34.

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Provision in case lands in U. C. taken be of less value than mortgage secured upon them, or part only of mortgaged lands are taken.

35. In all cases in which any lands lying within Upper Canada, subject to any mortgage, are required for the purposes of this Chapter, and in which such lands are of less value than the principal moneys, interest and costs secured thereon, or in which a part only of the lands subject to any mortgage is required for the purposes of this Chapter, and such part is of less value than the principal money, interest and costs secured on such lands by mortgage, and the mortgagee thereof does not consider the remaining part of such lands to be a sufficient security for the money charged thereon, or is not willing to release the part required for the purposes of this Chapter from the principal or mortgage money, and all interest due or to become due thereon, and all costs;—the value of such lands, or, as the case may be, of such part of the said lands as is required for the purposes aforesaid, and also the compensation (if any) for any damages done in respect of the parts so required, shall be settled and agreed upon by and between the mortgagee and the trustee or other person entitled to the equity of redemption of such lands, whether absolutely or for such estate as might capacitate him, to convey for the purposes of this Chapter, on the one part, and the said Commissioners on behalf of Her Majesty on the other part; and in case of any difference between them, then such value and compensation shall be determined by the verdict of a jury, in the same manner as in other cases of difference under this Chapter; and the amount of such value and compensation to be so agreed or determined as aforesaid, shall be paid to such mortgagee or mortgagees in satisfaction of his claim, so far as the same will extend; and such mortgagee shall thereupon convey, assign, and transfer all his interest in such mortgaged lands, the value whereof or compensation for has been so agreed upon or determined as aforesaid, or in case of his neglecting or refusing to convey or assign or transfer as hereinbefore directed, then the amount of such value and compensation shall be paid into the Provincial Treasury, to the credit of such mortgagee, and such payment to the mortgagee or mortgagees, or into the Public Provincial Treasury, shall be accepted in satisfaction of the claim of such mortgagee, so far as the same will extend, and

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and also in full discharge and exoneration of such part of the mortgaged lands as are taken or used, from all principal and interest and other money due or secured thereon,—and thereupon such mortgaged lands so taken or used shall become absolutely vested in the said Commissioners, who shall be deemed to be in the actual possession thereof, to all intents and purposes whatsoever;

2. Nevertheless, all mortgagees shall have the same powers and remedies for recovering or compelling payment of their mortgage money, or the residue thereof, (as the case may be,) or the interest thereof respectively, upon and out of the residue of the mortgaged lands not required for the purposes aforesaid, as they would have had or been entitled to for the recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage;

Powers of mortgagees, &c.

3. And when a part only of the lands subject to any mortgage are required or have been taken for the purposes of this Chapter as aforesaid, and the value of the lands so taken has, on the assignment or conveyance thereof to the said Commissioners, been paid to the mortgagee thereof, in part satisfaction of his mortgage debt, a memorandum of what has been so paid shall be endorsed on the deed creating such mortgage at the time of executing such assignment or conveyance to the said Commissioners, and shall be signed by such mortgagee, and a copy of such memorandum shall at the same time, if required, be furnished by the said Commissioners to the person so entitled as aforesaid to the equity of redemption of the lands comprised in such mortgage deed. 14, 15 V. c. 67, s. 35.

In case part only of the lands are required, &c.

36. Conveyances of lands purchased in pursuance of this Chapter, may be made according to the following form, or as near thereto as the number of the parties, and the circumstances of the case will admit, that is to say:

Form of conveyance under this chapter.

“ I, _____, of _____, in consideration of the sum of _____ to me, (or, as the case may be,) into the Bank of _____ paid by the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, do hereby convey to the said Commissioners all (describing the lands to be conveyed), together with all ways, rights and appurtenances thereunto belonging, and all such estate, right, title and interest in and to the same and every part thereof, as I am or shall become seized or possessed of, or am by the Act respecting Lands and real property held by the Imperial authorities for the naval defence of this Province, capacitated or empowered to convey: to hold the said lands to the said Commissioners in trust, and according to the intent and meaning of the said Chapter. In witness whereof, I have hereunto set my hand and seal the _____ day of _____ in the year of Our Lord _____.”

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Effect of such conveyance.

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2. And all such and other conveyances to the said Commissioners shall be valid and effectual in the law to all intents and purposes, and shall operate to merge all terms of years, attendant by express declaration or by construction of law, on the estate or interest so thereby conveyed, and to bar and destroy all estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands in such conveyances respectively comprised; but although any such terms of years shall be merged as aforesaid, yet they shall in equity respectively afford the same and the like protection and priority against mesne incumbrances, as if such terms of years were assigned and kept on foot, in trust for the said Commissioners, and to attend the freehold, reversion or inheritance of the lands therein comprised. 14, 15 V. c. 67, s. 36. 5 10 15

POWERS OF COMMISSIONERS FOR CERTAIN PURPOSES.

Commissioner may stop up or divert any road, &c., on providing another equally good.

37. The said Commissioners may, without any Writ being issued, or other legal proceeding being adopted, stop up and divert any landing place, turnpike road, highway, street, carriage-way, horse-way, foot-way and cause-way, on, near or adjoining to any land required for the purposes of this Chapter, they, at the cost of Her Majesty, previously making and opening another good and sufficient landing place, road or way, with requisite boundary fences, in lieu of that so diverted or stopped up, and at such convenient distance therefrom as to the said Commissioners seems proper and necessary; And upon such substituted landing place, road or way being completed, the landing place, road or way diverted or stopped up, and the soil thereof, shall vest absolutely in the said Commissioners in trust for Her Majesty, for the public service; and the new landing place, road or way, and the soil thereof, shall vest in the same trustees, or other persons, as the landing place, road or way so directed or stopped up was vested in at the time of the diversion or stoppage thereof by the said Commissioners; 20 Act

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Proceedings when it is deemed necessary to stop up, &c., any road, &c.

But whenever it is deemed necessary to stop up or divert any turnpike or other road, landing place, highway, street, carriage or other way, under or through which any public drain or sewer, or main pipe for the conveyance of water passes or is laid, the said Commissioners, previous to any such drain, sewer or pipe being disturbed or injured, shall, at the cost of Her Majesty, cause another good and sufficient drain or sewer to be made, and other and sufficient pipe or pipes, for the conveyance of water, to be laid down, through or under the road or way intended to be substituted. 14, 15 V. c. 67, s. 37. 25 30 40

How the substituted road shall be kept in repair.

38. Every road or way substituted by the said Commissioners for any road or way stopped up or diverted by them shall be kept in repair by the said Commissioners, at the cost of Her Majesty, for the space of twelve calendar months, from the time 45 50

time of the opening thereof, and at the expiration of such twelve ~~calendar~~ months, the substituted road or way shall be repaired, for ever thereafter, by and at the cost of the trustees or other persons who would or ought to have kept in repair the road or way so diverted or stopped up. 14, 15 V. c. 67, s. 38.

39. But nothing herein contained shall be construed to restrain or prevent the Governor of this Province, with the consent of the Lord High Admiral or Commissioners of the Admiralty for the time being, but not otherwise, from authorizing the construction of any canal or railway upon or over any lands reserved or set apart as aforesaid by the Government of either of the late Provinces as aforesaid, in Council, for Military or Naval purposes, and which by this ~~Chapter~~ are vested in the said Commissioners. 14, 15 V. c. 67, s. 39.

Canals or rail-roads may be made through reserves by permission of Governor and Commissioner.

Act

40. Every tenant or lessee for a year, or from year to year, or any other person or persons in possession of any lands acquired or purchased by virtue of this ~~Chapter~~, who has no greater interest in such lands than as lessee for a year, or from year to year thereof, shall, at the expiration of any notice, not being less than three ~~calendar~~ months,—such notice being in writing, signed by the said Commissioners, or by any person under their authority, and given to him, her or them, or left at the lands which are the subject of such notice, and whether such notice be given with reference to the time or times of such tenants holding or not,—quit and relinquish the said lands unto the said Commissioners, or unto any person by them authorized to receive possession thereof :

Tenants by the year or at will, to quit at once.

Act

or

2. And in case any such tenant or lessee is compelled to quit before the expiration of his term or interest in any such lands, then and in such case the said Commissioners shall give satisfaction and compensation for the loss or damage which he sustains thereby ; and in case of any difference as to the amount of such satisfaction or compensation, the same shall or may be settled and ascertained by a Jury in the same manner as the sums of money to be paid for the purchase of any lands (and liable to the same conditions as to costs) are hereinbefore directed to be ascertained ; or if the said Commissioners and the other parties in difference so agree, the same may be settled by a reference to the award of an arbitrator or arbitrators, to be agreed on or chosen by the parties ;—and every person so in the possession of any lands or any part of the same, required or purchased in pursuance of this ~~Chapter~~, shall, upon tender or payment as aforesaid of such recompense or satisfaction for any of his term, estate or interest in the premises as is mutually agreed upon, or settled and awarded by any arbitrator, referee or umpire, or by verdict or inquisition of a Jury in manner aforesaid, quit and relinquish the said lands so in their respective possessions, unto the said Commissioners, or to any person by them authorized to receive possession of the same, and all

Compensation and satisfaction to be given to such tenants.

Act

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all the leases and agreements whatsoever, by virtue whereof any such person holds the said lands, shall, at the expiration of such notice, or upon such payment or tender as aforesaid in case the party is entitled to compensation, be absolutely void as against Her Majesty, and the said Commissioners;—and if any such tenant or lessee or other person, refuses or neglects to deliver up the lands in his possession, at the expiration of such notice, or upon such payment or tender as aforesaid, any Justice of the Peace may, issue his Precept or Warrant to a Constable to enter upon the said lands and to take possession thereof, and to deliver the possession thereof to such person as shall in such Precept or Warrant be nominated to receive the same, being a person appointed in that behalf by the said Commissioners, and the Constable is hereby authorized and required to cause such possession to be taken and delivered accordingly. 14, 15 V. c. 67, s. 40

Amount of claims may be referred to arbitration.

41. All persons hereby or otherwise capacitated to sell, and who do not agree with the said Commissioners as to the price to be paid or the lands to be given in exchange for any lands required to be purchased by virtue of this Chapter, or for any estate or interest therein, or charge or incumbrance thereon, or as to the amount to be paid by way of compensation for any damage whatsoever, or with reference to the value of any good will, improvements or fixtures, may, if they think fit, agree with the said Commissioners to refer it to any person or persons to assess the amount to be paid, and every such agreement and the award of such person or persons shall be in all respects binding and effectual. 14, 15 V. c. 67, s. 41. *Act 30*

Notice of action to be given for things done under this chapter.

42. No action, suit or other proceeding shall be commenced or brought against any person for any thing done in execution or in pursuance of this Chapter, until after twenty-eight days' notice thereof has been given to such person, clearly and explicitly specifying the cause of action, suit or proceeding, and the name and place of abode of the person commencing the same, and of his attorney or agent (if any), nor after a sufficient compensation or tender thereof made to the party aggrieved, nor after three calendar months next after the act committed; And the defendant in every such action or suit may at his election, plead either specially or the general issue, and give this Chapter or the special matter in evidence at any trial to be had thereupon, and that the same was done in the execution and in pursuance of and by the authority of this Chapter; and if the same appears to be so done, or if such action or suit is brought before twenty-eight days' notice thereof has been given as aforesaid, or after sufficient compensation made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, the Jury shall find, (or the Court shall give judgment if the case be tried in Lower Canada, and without the intervention of a Jury,) for the defendant, and upon such verdict or judgment, or if the plaintiff *Act 35 40 45 50*

Act

is non-suited or discontinue his action or suit after the defendant has appeared, or if upon demurrer, judgment is given against the plaintiff, then the defendant shall be entitled to and recover his full costs, and shall have such remedy for recovering the same as any defendant hath for his costs in any other cases by Law. 14, 15 V. c. 67, s. 42.

43. If the said Commissioners or any person or party interested in the lands and other real property, so marked out and taken as aforesaid, is dissatisfied with the verdict of such jury, such Commissioners or person, at the term commencing next after the rendering of such verdict if the owner or some person hereby empowered to convey such lands and other real property has had due notice of the taking thereof, or within one year if they have been taken as belonging to some party unknown, or as being absent from the Province and having left no known person therein who might convey or demise the same on behalf of such party, may apply to the Court having jurisdiction in the premises, according to the provisions of the fifty-fourth section of this Chapter, and may suggest that they have reason to be dissatisfied with such verdict, and may give notice of such application to the opposite party, or to such persons as are hereinafter mentioned, and may give security to the satisfaction of the Court for the payment of costs;—and thereupon the proceedings which have been had in the matter, and the verdict of the jury, shall be returned into Court, and if it appears to the Court that the application ought to be granted, then the Court shall direct the compensation to be paid to be assessed and ascertained by a jury, according to law and the course and practice of the Court, and such damages may be inquired of and ascertained by a jury, and the verdict of such jury shall be final and conclusive, unless a new assessment of damages is for sufficient reason granted by the Court according to the course and practice thereof and to law. 14, 15 V. c. 67, s. 43.

Appeal to Superior Court in certain cases.

44. No enrollment of any deed conveying any lands or real property, or any estate therein to the said Commissioners, shall be necessary to vest the same in them in trust as aforesaid, but the said Commissioners may at their option cause any deed or instrument, not being a Notarial instrument, relating to any lands or real property vested in them, to be enrolled upon payment of the usual fees, in the office of the Provincial Registrar, without its being necessary for them to produce that Officer any proof of the execution of such deed or instrument; and a copy of such enrollment, signed by the Provincial Registrar, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed or instrument in any Court of Law and Equity, and on every occasion shall have the same force and effect to all intents and purposes as such deed, instrument or document

As to enrollment of deeds to Commissioners.

document would have if the same were respectively produced and shewn forth. 14, 15 V. c. 67, s. 44.

CHANGING THE TENURE OF LANDS.

Commissioners may free lands acquired by them from Seigniorial Tenure.

45. And whereas it is expedient that the said Commissioners should have the power of freeing lands or real property vested in them from all seigniorial rights, burdens and charges; Therefore, the said Commissioners may pay or tender to the seignior within the *censive* of whose seigniority any lands or real property vested in them lie, if the tenure of such lands has not been theretofore commuted,—such sum as at the legal rate of interest would produce annually a sum equal to the *legal cens et rentes*, payable annually on such lands or real property, and a further sum equal to one-fifth part of the price then last paid for the same, over and above all *lods et ventes* and arrears which may then have accrued and be due, and on such payment or tender, such lands or real property shall be for ever after freed from all seigniorial rights, burdens and charges, and if thereafter conveyed to any other party by the said Commissioners, shall be held *en franc-allevu roturier* for ever. 14, 15 V. c. 67, s. 45.

BRINGING SUITS, EXECUTING DEEDS, &c.

Commissioners empowered to sue and be sued in matters relative to property held by them.

46. The said Commissioners may bring, prosecute and maintain any action or actions of ejectment, or other actions and proceedings, either at law or equity, for recovering possession of any lands or other real property vested in them, or to which they become entitled under the provisions of this Chapter, or otherwise howsoever, and may distrain and receive for any arrears or any other dues of any kind which have become due, for or in respect thereof, under any parol or other demise, grant or concession from the said Commissioners, or from Her Majesty, or any person or officer acting for or on behalf of Her Majesty, or from any party holding such lands or real property in trust for Her Majesty,—and may also bring, prosecute and maintain any other action, suit or proceeding in law or in equity, in respect of any such lands or other real property, or of any right or interest therein, or of any trespass or encroachment committed thereon, or damage or injury done thereto,—and also upon all covenants and contracts whatsoever, now or hereafter to be made by, to or with the said Commissioners, and in any way relating to such lands and real property;—And in every such suit, action or other proceeding, the said Commissioners shall be called “The Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland,” without naming the name, be sued and impleaded and prosecuted, and may answer and defend any suit, action, prosecution, or proceeding brought or instituted against them in any Court of Law or Equity.

Equity in this Province, by any person or party whomsoever ;—
and no suit, action or proceeding to which the said Commis-
sioners are a party, shall abate or be discontinued or inter-
rupted by the death, resignation, or removal of such Commis-
sioners, or any of them. 14, 15 V. c. 67, s. 46.

47. And, when and as often as there occurs a transfer of
the powers by this ~~Chapter~~ conferred from a Lord High Admir-
al to Commissioners for executing the Office of Lord High
Admiral, or from such Commissioners to a Lord High Admiral,
by its being the pleasure of Her Majesty, to appoint a Lord High
Admiral or Commissioners for executing the Office of Lord
High Admiral of the said United Kingdom, no such proceed-
ing, either at Law or in Equity, or before any Justice of the
Peace, or other tribunal or judicial, or other Officer whatsoever
or whomsoever, pending by or against the Lord High Admiral
or the Commissioners for executing the office of Lord High
Admiral of the said United Kingdom, for the time being, shall
abate or be discontinued, or otherwise affected by such transfer,
but the fact of Her Majesty having been pleased to make such
new appointment since the last proceeding therein, having been
suggested of Record or otherwise, as the Court, Justice or other
Officer before whom the same is pending, may direct, the pro-
ceedings shall thereupon continue to be conducted in the name
of the Lord High Admiral, or of the Commissioners for execut-
ing the Office of Lord High Admiral, as the case may be, and
judgment given, and execution awarded with all the conse-
quences, as if such proceedings had been originally instituted
in the name of the Lord High Admiral or the Commissioners,
as aforesaid : And any such suggestions may be entered *nunc
pro tunc* whenever such Court, Justice or other Officer, before
whom such proceeding was pending at the time, thinks fit to
order the same so to be entered. 14, 15 V. c. 67, s. 47.

No action to
abate by rea-
son of appoint-
ment of Lord
High Admiral
or Commis-
sioners.

Act

48. All such suits, actions or proceedings to be brought or
instituted against the said Commissioners, may be brought or
instituted in the Court within the local jurisdiction whereof the
lands or other real property to which such suits, actions or pro-
ceedings may respectively relate are situate, or the cause of
action has arisen ;—and service of any writ, summons, process,
order, notice or other document, required to be made for that
purpose, or in the progress of any such action, suit or proceeding
to which the said Commissioners are parties, shall be deemed to
be validly made upon the said Commissioners, by leaving a true
copy thereof at the office or place of residence of the officer or
person who has been appointed by the said Lord High Admiral,
or Commissioners, for executing the office of Lord High Ad-
miral as aforesaid for the time being, to execute the powers of
this ~~Chapter~~ conferred under the fifty-sixth section thereof,
within the local jurisdiction of such Court, or if there are more
than one such officer or person, then at the office or place of
residence of any one of the officers or persons so appointed as
aforesaid

How service
may be made
upon the said
Commission-
ers.

Act

aforesaid within such local jurisdiction of the said Court, and if there is no such officer or person within the jurisdiction of the said Court, then on the senior Naval Officer in command within this Province, or if there is no such officer or person so appointed then resident within this Province and the said senior Naval Officer is out of the jurisdiction of the said Court for the time being, then by transmitting a true copy of such Summons, Process, Order, Notice of other Document, through the Post Office, directed to Her Majesty's Attorney General for that section of this Province in which such suit, action or proceeding is brought or pending. 14, 15 V. c. 67, s. 48.

Commissioners may recover costs.

49. In all suits, actions and other proceedings at law or in equity, in which a verdict passes, or judgment or decision is given for or in favor of the said Commissioners, the said Commissioners shall, in addition to all damages to which they are entitled, have judgment for their full costs and charges in such suits, actions or proceedings, to be assessed and taxed against the defendant or other opposing party, and to be recovered and levied in the same manner and form as they might have been assessed, taxed, recovered and levied in favor of any private party. 14, 15 V. c. 67, s. 49.

Saving of Her Majesty's rights.

50. Nothing herein contained, shall be taken to defeat or abridge, in any such action or other proceeding, the several rights, privileges and prerogatives of Her Majesty, but in all such suits, actions and other proceedings brought or instituted in the name of the said Commissioners, and in all matters relating thereto, the said Commissioners may claim, exercise and enjoy all the same rights, privileges and prerogatives which have been heretofore claimed, exercised and enjoyed, in any suits, actions or proceedings whatsoever in any Court of Law or of Equity, by Her Majesty or Her Royal Predecessors, in the same manner as if the subject matter of such suits, actions or other proceedings were vested in Her Majesty, and as if Her Majesty were actually made a party to the same. And Her Majesty may if so advised, proceed by information in the proper Court of Queen's Bench, or Superior Court, or by any other Crown Process, legal or equitable, in any case in which such suits, actions or other proceedings might otherwise have been instituted by the said Commissioners. 14, 15 V. c. 67, s. 50.

Name and style adopted by Commissioners in deeds, &c.

51. In all contracts of every description, and in all conveyances, surrenders, leases, and in other deeds, and in other instruments whatsoever relating to the public service, made or entered into by, to or with the said Commissioners, or whereunto they shall be a party, it shall be sufficient to call or describe them by the style and title of the "Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without naming them or any of them, and all such contracts, conveyances, surrenders, leases, and

and other deeds and instruments, wherein the said Commissioners are so called and described as aforesaid, shall be as valid and effectual and shall have the same force and effect to all intents and purposes whatsoever, as if the said Commissioners had been particularly named and described therein, and with regard to their successors in office, as if such successors had made and entered into the same, and had been named and described therein. 14, 15 V. c. 67, s. 51.

52. The said Commissioners may give any notice, and make any entry, claim or demand which it shall be requisite or expedient to give or make on behalf of Her Majesty, with a view to compel any tenant, lessee, or occupier of any lands or other real property vested in the said Commissioners under the provisions of this Chapter, to quit or deliver up possession thereof, or to compel the performance of any covenant, contract or engagement relating thereto, or to recover possession on non-performance of any covenant, contract or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and they may give any other notice and make any claim or demand, or do any other act or thing which it shall be requisite to make, give, or do on behalf of Her Majesty, touching or concerning any such lands or other real property, or any right, title or interest therein; and the same being so made, given or done, shall be valid and effectual to all intents and purposes whatsoever. 14, 15 V. c. 67, s. 52.

Power to Commissioners to give notices, &c.

Act

53. Nothing contained in this chapter, or in any covenant, contract, lease, or other instrument hereby authorized to be entered into, made, taken or executed by the said Commissioners, or any of them, or by any person or officer acting under them, shall extend to charge the persons of such Commissioners, person or officer executing such covenant, contract, lease or other instrument, or their heirs, executors, administrators, curators, or other legal representatives, or their or any of their own proper lands or tenements, goods or chattels, with the performance of any of the covenants, conditions and agreements entered into on the part of such Commissioners for the public service, and by their name of office as aforesaid; nor shall the said Commissioners, or any of them, be personally liable; nor shall any property of such Commissioners, or any of them, be liable to any legal process or execution in such suits, actions, or other proceedings as aforesaid. 14, 15 V. c. 67, s. 53.

Commissioners not personally liable.

Act

54. The Courts into which all inquisitions to be taken under this chapter shall be returned, to which all appeals upon such inquisitions shall lie, and which shall have jurisdiction in the matter of all moneys paid into Her Majesty's Public Provincial Treasury under the same, with all the other powers, authority and jurisdiction conferred upon such Court for the better carrying this

What Courts shall have jurisdiction.

Act

Act

this ~~chapter~~ into effect, shall be Her Majesty's High Court of Chancery for Upper Canada, and Her Majesty's Superior Court for Lower Canada; and in all cases in which the lands or other real property in respect of which the proceedings have arisen or are required, are situate in Upper Canada, all such jurisdiction in the premises shall be vested in and belong to Her Majesty's said High Court of Chancery for Upper Canada, and not in or to the said Superior Court; and in all cases in which such lands or other real property shall be situate in Lower Canada, all such jurisdiction in the premises shall be vested in and belong to Her Majesty's Superior Court for Lower Canada, and not in or to the said Court of Chancery :

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Appeals.

Nevertheless, firstly, nothing herein contained shall extend to preclude appeals from such decisions, of the said Courts respectively in the premises as would be incident to such decisions, from the nature or character thereof, according to the law of that section of the Province within which such Courts respectively have jurisdiction; and secondly, nothing herein contained shall extend to derogate from the original summary powers by this ~~chapter~~ conferred in certain cases on Justices of the Peace or other local Officers, or to prevent any such summary proceedings before any such Sheriff or others from being received or otherwise dealt with according to the laws of that section of the Province in which they have taken place.
14, 15 V. c. 67, s. 54.

Act

APPOINTMENT OR NON-APPOINTMENT OF LORD HIGH ADMIRAL
-- ITS EFFECT.

Property to be vested in Lord High Admiral when there shall be one, &c.

55. Whenever it pleases Her Majesty to appoint a Lord High Admiral of the United Kingdom, then and so long and as often as there is a Lord High Admiral of the United Kingdom, all the lands and powers vested in or given or hereafter to be vested in or given to the Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, under or by virtue of any Act or Acts now in force, or of this ~~chapter~~, or of any Act hereafter to be passed, shall be and become vested in the Lord High Admiral of the United Kingdom for the time being, in trust for Her Majesty, for the public service, and he, for the time being, shall be the sole Commissioner for carrying this ~~Chapter~~ into effect; but when and so often as there shall be no Lord High Admiral of the said United Kingdom, but it pleases Her Majesty, to appoint any persons Commissioners for executing the Office of Lord High Admiral of the said United Kingdom, then so long as the said office is executed by Commissioners as aforesaid, all acts, deeds, matters and things done or executed by the said Commissioners in pursuance or under the authority of this ~~chapter~~, may be done or executed by any two of such Commissioners for the time being, and the same shall be as valid and effectual as if done or executed by all the said Commissioners.
14, 15 V. c. 67, s. 55.

Act

Act

Act

56.

56. The Lord High Admiral of the said United Kingdom for the time being, or if there be no Lord High Admiral, then the Commissioners for executing the Office of Lord High Admiral for the time being, or for any two or more of such Commissioners, may respectively, from time to time as occasion requires, authorize and empower any person or persons, or any Officer or Officers, by his or their name or title of office, to exercise or execute all or any of the powers, authorities or duties, or to perform and do and execute all or any acts, matters and things, which, by virtue of this Act, the said Lord High Admiral or Commissioners for executing the office of Lord High Admiral of the said United Kingdom, may exercise, execute, perform or do, as validly and effectually as the said Lord High Admiral or Commissioners aforesaid might exercise, execute, perform and do the same, and may revoke such authority at pleasure;—and such authority shall, notwithstanding the death, resignation, or removal from office of such Lord High Admiral or Commissioner, or any one or more of them who have given the same, remain in force as if given by the said Lord High Admiral or Commissioners for executing the office of Lord High Admiral for the time being, or by the Commissioners for executing the office of Lord High Admiral for the time being, or any two of them. 14, 15 V. c. 67, s. 56

Powers given
by this chapter
may be
deputed.

Act

INTERPRETATION.

57. In the construction and for the purposes of this chapter, unless there be something in the subject or context repugnant to such construction, the following words shall bear the meaning assigned to them respectively, that is to say: the words "Her Majesty," or "the Crown," shall be held to mean and include Her Majesty and Her Royal Predecessors and Successors, and the words "Commissioners of the Admiralty," and the word "Commissioners," shall severally be construed to mean the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, for the time being, but shall apply also to the said Lord High Admiral whenever there is such Officer; the words "person" or "persons" shall each of them be construed to include all bodies politic, corporate, collegiate, ecclesiastical and civil, both aggregate and sole, as well as every private individual; the word "lands," shall be construed to include lands of every tenure, and also houses, buildings, grounds, tenements and hereditaments, both corporal and incorporeal, of every description and tenure, unless the context clearly requires that a more limited meaning be assigned to them. 14, 15 V. c. 67, s. 57.

Interpretation
clause.

Act

58. This Act shall be deemed and taken to be a Public Act. 14, 15 V. c. 67, s. 58.

SCHEDULE

SCHEDULE

Act

Of certain Lands vested in the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, by this ~~chapter~~

Firstly. The three Reserves in the Township of Sherbrooke, in the County of Haldimand, at or near the *embouchure* of the Grand River, on the north shore of Lake Erie, containing two hundred and eighty-eight acres, more or less, to wit: The first, at the mouth of Grand River, containing two hundred and nineteen acres, more or less; the second, at Barbet Point or *Pointe au Barbet*, containing forty-eight acres two roods and thirty-two perches, more or less; and the third, at Mohawk Bay, containing twenty acres, more or less.

Secondly. Those Reserves situate in the Townships of Tiny and Tay, in the County of Simcoe, on the south-easterly side of Penetanguishene Harbor, containing three hundred and eighty-nine acres, more or less.

Thirdly. Those Reserves situate near the City of Kingston, to wit: So much of Point Frederick in the Township of Pittsburg in the County of Frontenac, now in the possession of the Naval Authorities at Kingston, and included between a fence or fences on the south side of the road leading from the east end of the Catarqui Bridge to the Village of Barrefield, and another fence at the south-west end of the Naval Yard separating it from the Tower on the extremity of Point Frederick; and also Point Frederick, the Inlets designated as Haldimand Cove and Hamilton Cove.

Fourthly. Those Reserves, situate on the east branch of the Holland River, in the town plot of Gwillimbury, in the County of Simcoe, to wit: Lots numbers forty-nine, fifty, fifty-one and fifty-two, west side of Meadow Street, containing together about four acres.

Fifthly. Those Reserves at Pointe Pelée, in the Township of Mersea, in the County of Essex, containing three thousand acres, more or less.

Sixthly. Lot number thirteen, in the eleventh concession of the Township of Vespra, in the County of Simcoe, containing two hundred acres, more or less.

Seventhly. Lots number one, in the first and second concession of the Island of St. Joseph in Lake Huron, with the broken fronts to the south of the said lots, containing five hundred acres, more or less.

Eighthly.

Eighthly. The south half of lot number six, in the ninth concession of the said Island of St. Joseph, on Milford Haven, containing one hundred and six acres, more or less.

Ninthly. All the land conveyed by a certain deed from Captain R. O'Connor, acting by his Attorney J. B. Marks, to Commissioner R. Barrie, bearing date twenty-third of August, one thousand eight hundred and nineteen, and witnessed by Wm. Joseph Robins and James Nichols, Junior.

Except any of the said Lands transferred to the Province under the *Act respecting the Ordnance Lands transferred to the Province.* *

* Note.—The powers vested by this chapter in the Commissioners for executing the office of Lord High Admiral, are not transferred to the Principal Secretary of State for the War Department by 19, 20 V. c. 45, though the Lands vested in the said Commissioners are mentioned in the said Act.

C/

and Admirals

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

An Act respecting the preservation of the Public Health.

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

Act
This chapter to be put in force temporarily by Proclamation when the Province is threatened with any formidable epidemic.

1. Whenever this Province, or any part thereof, or place therein, appears to be threatened with any formidable epidemic, endemic or contagious disease, the Governor may by Proclamation, to be by Him from time to time issued by and with the advice and consent of the Executive Council, declare this ~~chapter~~ to be in force in this Province, or in any part thereof, or place therein, mentioned in such Proclamation; and it shall thereupon be in force accordingly: and the Governor may in like manner from time to time, as to all or any of the parts or places to which any such Proclamation extends, revoke or renew any such Proclamation; and, subject to revocation and renewal as aforesaid, every such Proclamation shall have effect for six ~~calendar~~ months, or for any shorter period in such Proclamation expressed. 12 V. c. 8, s. 1.

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Parts of Chapter 57 of Con. Stat. of U. C., suspended in part as to places affected by such Proclamation.

2. Upon the issuing of any such Proclamation, and whilst the same is in force, the first, second, third and sixth sections of the fifty-seventh chapter of the Consolidated Statutes of Upper Canada, intituled, *An Act respecting the Public Health*, and so much of the fifth section thereof as provides for the trial and punishment of any person accused of wilfully disobeying or resisting any lawful Order of any Health Officers acting under the said Act, or of wilfully resisting or obstructing such Health Officers in the execution of their duties,—shall be suspended as to every place mentioned in such Proclamation, or being within any part of this Province included thereby: but any person accused of having wilfully disobeyed or resisted such order, or resisted or obstructed such Officer, before the issuing of the Proclamation, may nevertheless be tried and dealt with as if such Proclamation had not been issued. 12 V. c. 8, s. 2.

After issuing such Proclamation, the Governor may appoint a Central Board of Health.

3. From time to time after the issuing of any such Proclamation, and whilst it is in force, the Governor may, by Commission under his Hand and Seal, appoint five or more persons, to be "The Central Board of Health," and also, such Officers and Servants as he deems necessary to assist the Board; and the powers and duties of the said Board may be exercised and executed by any three Members thereof; and during any vacancy in the said Board, the continuing Members or Member, may act as if no vacancy had occurred:

7. And every such Commission shall *ipso facto* be determined by the revocation of the Proclamation under which it issued, as to all the places included in such Proclamation, or by the expiration of six ~~calendar~~ months from the date of such Proclamation, or of any shorter period expressed in such Proclamation, as that during which it is to be in force : unless such Proclamation be renewed as to all or some of such parts and places. 12 V. c. 8, s. 3.

Duration of such Commission.

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16 1. From time to time, while any such Proclamation is in force, the Mayor or other Head of the Municipal Corporation, Inspecting Trustee or other Chief Municipal Officer, of any and every place mentioned in such Proclamation, or included thereby, may call a special meeting of the Council or other Municipal Corporation or of the Police Trustees of such place, over which he presides, for the purpose of nominating, and such Municipal Corporation or Police Trustees shall nominate accordingly not less than three persons, resident within the limits of their respective jurisdictions, (or in the case of a City, Town or Village, within seven miles thereof,) to be "The Local Board of Health" for such place :

Chief Municipal Officer of every place affected by such Proclamation to take steps for constituting a "Local Board of Health."

2. And such Mayor, or other Head of such Municipal Corporation, Inspecting Trustee, or other Chief Municipal Officer, shall call such special meeting within two days from the receipt of a written requisition to that effect, signed by ten or more inhabitant-householders of the place under the jurisdiction of the body over which he presides, on pain of being personally liable to the penalty hereinafter mentioned ; and if at any time while any such Proclamation is in force, it is certified to the Governor by any ten or more inhabitant-householders of any place included in such Proclamation, that the Mayor or other Head of such Municipal Corporation, or Inspecting Trustee, or other Chief Municipal Officer of such place, has failed to comply with such requisition, within such time as aforesaid, the Governor in Council may forthwith appoint not less than three persons resident within the limits of such place, (or in the case of a City, Town or Village, within seven miles thereof,) to be the Local Board of Health, for such place ;

Special meeting for their election to be called within a certain time after written requisition from inhabitant-householders.

If no meeting called within the prescribed time, Governor may appoint Local Board.

3. Every nomination or appointment of a Local Board of Health, under this ~~chapter~~, shall *ipso facto* be determined by the revocation of this ~~chapter~~, as to the place within the limits of which such Local Board is authorized to act, or as to any place in which it is included, or as to the whole Province, of the Proclamation under which such Local Board was appointed, or by the expiration of six months from the date of such Proclamation, or of any shorter period expressed in such Proclamation as that during which it is to be in force : unless such Proclamation be renewed as to such place, or any place in which it is included, or as to the whole Province. 12 V. c. 8, s. 4.

Duration of Local Board.

Act

Central Board of Health may issue regulations and directions for the prevention or mitigation of disease.

5. The Central Board or Health, or any three or more Members thereof, may from time to time issue such regulations as they think fit, for the prevention, as far as possible, or the mitigation of such epidemic, endemic or contagious diseases, and may revoke, renew or alter any such regulations, or substitute such new regulations as to them or any three of them appear expedient :

Tenor of such regulations and directions.

2. The said Board may by such regulations provide for the frequent and effectual cleansing of streets, by the Surveyors or Overseers of highways and others intrusted with the care and management thereof, or by the owners or occupiers of houses and tenements adjoining thereto ; and for the cleansing, purifying, ventilating and disinfecting of houses, dwellings, churches, buildings and places of assembly by the owners and occupiers, and persons having the care and ordering thereof ; for the removal of nuisances, for the speedy interment of the dead, and generally for preventing or mitigating such epidemic, endemic or contagious diseases, in such manner as to the said Central Board seems expedient ;

Central Board may authorize and require Local Boards to superintend and see to the execution of such regulations.

3. The said Central Board may by any such regulations, authorize and require the Local Boards of Health to superintend and see to the execution of any such regulations, and (where it appears that there may be default or delay in the execution thereof, by want or neglect of such Surveyors or others intrusted as aforesaid, or by reason of poverty of occupiers, or otherwise,) to execute or aid in executing the same within their respective limits, and to provide for the dispensing of medicines, and for affording to persons afflicted by or threatened with such epidemic, endemic or contagious diseases, such medical aid as may be required, and to do and provide all such acts, matters and things as are necessary for superintending or aiding in the execution of such regulations, or for executing the same as the case may require ;

They may extend to authorize the removal of parties from their dwellings under certain circumstances, and placing them in sheds or tents.

4. The said Central Board of Health may also by any such regulations, authorize and require the Local Boards of Health, in all cases in which diseases of a malignant and fatal character are discovered to exist in any dwelling-house or out-house, temporarily occupied as a dwelling, situated in an unhealthy or crowded locality, or being in a neglected or filthy state, in the exercise of a sound discretion, and at the proper costs and charges of such Local Boards of Health, to compel the inhabitants of any such dwelling-house or out-house, to remove therefrom, and to place them in sheds or tents, or other good shelter, in some more salubrious situation, until measures can be taken, by and under the directions of the Local Boards of Health, for the immediate cleansing, ventilation, purification and disinfection of the said dwelling-house or out-house ;

5. And the directions and regulations to be issued as aforesaid, shall extend to all parts or places, in which this Act shall, for the time being, be in force under any such Proclamation as aforesaid, unless such regulations be expressly confined to some of such parts or places, and then to such parts or places as in such directions and regulations shall be specified, and (subject to the power of revocation and alteration herein contained,) shall continue in force so long as this ~~chapter~~ shall be in force under such Proclamation, in the parts or places to which such regulations extend. 12 V. c. 8, s. 5.

To what places these regulations shall extend ;

And how long they shall continue in force.

act/

6. The Members of the said Local Boards of Health shall be called Health Officers, and any two or more of them acting in the execution of any such regulations as aforesaid, at reasonable times in the day-time, may enter and inspect any dwelling or premises, if there be ground for believing that any person has recently died of any such epidemic, endemic, or contagious disease in such dwelling or premises, or that there is any filth or other matter dangerous to health therein or thereupon, or that necessity otherwise exists for executing in relation to such dwelling or premises, all or any of such regulations as aforesaid :

Members of Local Boards of Health to be called Health Officers ;

And may enter dwellings in certain cases.

2. And in case the owner or occupier of any such dwelling or premises neglects or refuses to obey the orders given by such Health Officers, in pursuance of such regulations, such Health Officers may call to their assistance all Constables and Peace Officers, and such other persons as they think fit, and may enter into such dwelling or premises, and execute or cause to be executed therein such regulations, and remove therefrom and destroy whatsoever in pursuance of such regulations it is necessary to remove and destroy, for the preservation of the public health. 12 V. c. 8, s. 6.

And may call for assistance to enforce obedience to their lawful orders, if necessary.

7. The expenses incurred by the said Central Board of Health shall be defrayed out of any moneys appropriated by the Provincial Parliament for that purpose ; and the expenses incurred by the said Local Boards of Health in the execution or in superintending the execution of the regulations of the Central Board, shall be defrayed and provided for in the same manner and by the same means as expenses incurred by the Municipal Corporations, Councils, or other Municipal Bodies of or having jurisdiction over the respective places for which such Local Boards of Health were appointed then, are by law required to be defrayed and provided for. 12 V. c. 8, s. 7.

Expenses of Central Board to be defrayed by the Province.

Those of Local Boards by the respective localities.

8. No direction or regulation of the said Central Board of Health shall have any force or effect until it has been confirmed by the Governor in Council, and has thereafter been published in the *Canada Gazette* ; And every Proclamation of the Governor in Council, under this Act, shall also be published

Regulations of Central Board to be sanctioned by the Governor and published in the *Canada Gazette*.

Publication to be evidence of sanctions, &c. published in the *Canada Gazette*; And such publication of any such Proclamation or regulation shall be conclusive evidence of the Proclamation or regulation so published, and of the confirmation of such regulation as aforesaid, and of the dates thereof respectively, to all intents and purposes; And every such Proclamation and regulation shall forthwith upon the issuing thereof be laid before both Houses of the Provincial Parliament, if it be then sitting, and if not, then within the fourteen days next after the commencement of the then next Session of Parliament. 12 V. c. 8, s. 8.

Local By-laws on the subject of health to be suspended while such regulations continue in force. 9. Upon the publication of any such regulations as aforesaid, and whilst they continue in force, all by-laws made by the Town Council, Municipal Corporation, or other like body of any place to which such regulations or any of them relate, made for preserving the inhabitants thereof from contagious diseases, or for any other of the purposes for which such regulations are by this chapter required to be issued, shall become and be suspended:

Act

Also, Board of Health or Health Officers under such By-laws, &c. 2. And upon the appointment, and during the existence of a Local Board of Health, under this Act for any such place, any Board of Health or Health Officer, or other like Officer, or any Committee appointed under any such by-law, shall be and remain deprived and relieved of all powers, authorities and duties conferred and imposed upon him or them by any such by-law; but in any interval between the issuing of such regulations, and the appointment of such Local Board of Health, he or they shall exercise and perform such powers, authorities and duties, in conformity with such regulations, and shall act in every respect as if he or they were a Local Board of Health appointed under this chapter. 12 V. c. 8, s. 9.

Act

Penalty on persons obstructing the execution of this chapter, or refusing to comply with its requirements, or with the regulations of the Central Board of Health. 10. Whosoever wilfully obstructs any person acting under the authority or employed in the execution of this Act, or wilfully violates any regulation issued by the Central Board of Health under this chapter, or neglects or refuses to comply with such regulations, or with the requirements of this Act in any matter whatsoever, shall be liable, for every such offence, to a penalty not exceeding five pounds, to be recovered by any person before any two Justices, and to be levied by distress and sale of the goods and chattels of the offender, with the costs of such distress and sale, by Warrant under the hands and seals of the Justices before whom the same are recovered, or any other two Justices; and if it appears to the satisfaction of such Justices, before or after the issuing of such Warrant, either by the confession of the offender or otherwise, that he hath not goods and chattels within their jurisdiction sufficient to satisfy the amount, they may commit him to any Gaol or House of Correction for any time not exceeding fourteen days, unless the amount be sooner paid, in the same manner as if a Warrant of Distress had issued, and a return of *nulla bona* had been made thereon. 12 V. c. 8, s. 10—part.

Act
7 dollars
Act

To be recovered before two Justices.

Who may commit the offender to gaol in certain cases.

11.

11. All penalties whatever recovered under this ~~chapter~~ shall be paid to the Treasurer, and applied in aid of the rates or funds, of the place in which such penalties have been incurred respectively : and all offences committed against this ~~chapter~~ while the same is in force in this Province, or in any part thereof, shall be prosecuted, and the parties committing the same, convicted and punished therefor as herein provided, as well after as during the time that this ~~chapter~~ shall be declared to be in force in or by any such Proclamation or Proclamations as aforesaid. 12 V. c. 8, s. 10.

Applications of penalties.

Act

Act

Act

12. No Order nor any other proceeding, matter or thing, done or transacted in, or relating to the execution of this ~~chap~~, shall be vacated, quashed or set aside for want of form, or be removed or removable by *Certiorari*, or other Writ or Process whatsoever, into any of the Superior Courts in this Province. 12 V. c. 8, s. 11.

Certiorari taken away.

Act

Act

13. In this ~~chapter~~, the following words and expressions shall have the meanings hereinafter assigned to them, unless such meanings be repugnant to or inconsistent with the context, that is to say : the words "two Justices," shall mean two or more Justices of the Peace acting for the place where the matter, or any part of the matter requiring the cognizance of such two Justices, arises, assembled or acting together ; the word "Place," shall mean a City, Town, Borough, Village, Township, Parish or any other territorial division recognized or designated by law as a separate Municipality or Municipal Division ; the word "Street," shall include every Highway, Road, Square, Row, Lane, Mews, Court, Alley and Passage, whether a thorough-fare or not. 12 V. c. 8, s. 12.

Interpretation of certain words.

C A P . X X X I X .

An Act respecting Inoculation and Vaccination.

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

Penalty against persons inoculating with variolous matter.

1. Any person producing or attempting to produce, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter, or wilfully by any other means whatsoever, the disease of Small Pox in any person in this Province, shall be liable to be proceeded against and convicted summarily before any two Justices, and for every such offence shall, upon conviction, be imprisoned for any term not exceeding one month. 16 V. c. 170, s. 1.

The license of the person contravening to become null.

Act

2. If any person licensed to practise Physic, Surgery or Midwifery in this Province, or in any part thereof, is convicted of an offence against the provisions of this chapter, the license of such person in that behalf shall thereby become null and void and of no effect, and such person shall, from and after the date of such conviction, be liable to the same penalty in the event of his practising Physic, Surgery or Midwifery in Lower Canada or in Upper Canada respectively, as he would have been liable to for so doing if he had never been licensed to practise the same: But it shall be lawful for the Governor, on the certificate of the Medical Board in Upper Canada, or for the Provincial Medical Board in Lower Canada, at any time after the expiration of the term of imprisonment of any such person so convicted as aforesaid, again to license such person to practise Physic, Surgery and Midwifery as aforesaid, and thereupon and thereafter such person shall no longer be liable to any fine or penalty for so doing. 16 V. c. 170, s. 2.

Proviso: license may be renewed, &c.

Trustees, &c., of Hospitals to keep vaccine matter for certain purposes.

3. The Trustees, Governors, Directors, or other officers or persons having at any time the control and management of any Hospital or Dispensary receiving aid from the Public Funds of this Province, shall keep at all times in such Hospital or Dispensary an adequate supply of vaccine matter for the following purposes, viz :

For the vaccination of the poor.

First.—For the vaccination, by a legally qualified Medical Practitioner attached to such Hospital or Dispensary, at the expense of the same, of all poor persons, and at their own expense of all other persons, who may attend at such Hospital or Dispensary for that purpose, during one day in every week; the fee to be charged for such vaccination not in any case to exceed fifty cents, and to be used and applied for the benefit of the Hospital or Dispensary ;

Fee.

How applied.

Second.—

Second.—For the purpose of furnishing, on application, to each and every legally qualified Medical Practitioner, such reasonable quantities of the said matter as he may from time to time require ;

For furnish-
ing legally
qualified me-
dical practi-
tioners.

5 Third.—For the purpose of furnishing, on application, to the Superintendent General of Indian Affairs, or his Assistant, or to any Visiting Superintendent of Indian Affairs, such reasonable quantities of the said matter as he may from time to time require for the use and benefit of any settlement of Indians.

For the use of
the Indians.

10 22 V. c. 89, s. 1.

4. No warrant shall hereafter issue for the payment of any sum of money granted by the Legislature to any Hospital or Dispensary, unless nor until a certificate, signed by a Medical Officer of such Hospital or Dispensary, to the effect that there is actually on hand in such Hospital or Dispensary a supply of vaccine matter which is expected to be sufficient for the purposes aforesaid from the date of such certificate, or setting forth reasons and grounds in explanation of any deficiency in such supply to the satisfaction of the Governor in Council, has been filed in the office of the Clerk of the Executive Council ; nor unless nor until a certificate, signed as aforesaid, to the effect that at no time since the date of the then last certificate in this behalf, has the demand upon such Hospital or Dispensary for such matter for the purposes aforesaid, exceeded the supply thereof on hand in such Hospital or Dispensary, or setting forth reasons and grounds in explanation of any deficiency of such supply to the satisfaction of the Governor in Council, has been filed as aforesaid. 22 V. c. 89, s. 2.

No warrant
for the pay-
ment of money
to issue to any
Hospital un-
less it has
a sufficient
quantity of
vaccine matter
on hand, &c.

30 5. The Trustees, Governors, Directors, or other Officers or persons having for the time being the control and management of any Hospital or Dispensary to which aid has been granted during any Session of the Parliament of this Province, held after the year one thousand eight hundred and fifty-seven, shall cause to be transmitted to the Governor, through the Provincial Secretary, in time to admit of copies thereof being laid before the two Houses of Parliament of this Province, during the first fifteen days of the then next Session, a statement certified by the proper Officers of such Hospital or Dispensary, shewing the number of persons who have applied for and received free vaccination, the number of persons who have applied for and received vaccination at their own expense, and the number, amount and application of fees charged and received for vaccination. 22 V. c. 89, s. 3.

Annual state-
ment to be
laid before
Parliament
respecting
vaccination.

C A P . X L .

An Act respecting Emigrants and Quarantine.

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

EMIGRANTS.—DUTY PAYABLE ON THEM.

Duty imposed on Emigrants, &c.

1. There shall be raised, levied and collected, a duty payable in the manner hereinafter prescribed by the master of every vessel arriving in the Port of Quebec or in the Port of Montreal from any Port of the United Kingdom or of any other part of Europe, with Passengers or Emigrants therefrom, and such duty shall be ~~Five Shillings currency~~ for every Passenger or Emigrant above the age of one year, who embarked from any Port in the United Kingdom under the sanction of Her Majesty's Government, ascertained by a certificate from one of the Officers of Her Majesty's Customs at the Port at which such Vessel cleared or from any other Port in Europe with the sanction of the Government of the Country to which such Port belongs, ascertained by certificate of the proper authority at such Port,—and ~~Seven Shillings and Six Pence currency~~ for every Passenger or Emigrant who embarked without such sanction :

On those embarked with the sanction of the Government.

On those embarked without the sanction.

How payable.

2. The said duty shall be paid by the master of such Vessel, or by some person on his behalf, to the Collector of Customs at the Port in this Province at which such Vessel is first entered, and at the time of making such first entry, which shall contain on the face of it the number of Passengers actually on board the vessel ; and no such entry shall be deemed validly made or to have any legal effect whatsoever, unless such rates or duties are so paid as aforesaid ; but no child under the age of one year shall be reckoned among the number of Passengers ;

Draft on the Commissary General, &c., authorizing payment of the duty, &c., to be accepted by the Collector.

3. Any draft, order or other document made or signed by any person in the United Kingdom aforesaid, duly empowered to that effect by Her Majesty's Government, and directed to Her Majesty's Commissary General or other Officer having charge of the Military Chest in this Province, and authorizing the payment to the Collector of Customs aforesaid, of the duty which would otherwise be payable by the Master of any Vessel for any number of Emigrants on board such Vessel, shall be accepted by the Collector as payment of the duty payable on such Emigrants, and the sum mentioned in such order shall thereafter be received by such Collector and paid over and applied in the same manner as other money raised under the authority of this Chapter 16 V. c. 86, s. 2, ~~as amended by 22 V. c. 3,~~ s. 1.

Act

and

EMIGRANTS.—

one dollar /
one dollar and fifty cents

EMIGRANTS.—PROPORTION OF PASSENGERS TO SIZE OF VESSEL.

2. If any Vessel from any port or place on the continent of Europe, or from any other port or place out of Her Majesty's dominions, comes within the limits of this Province having on board or having had on board at any time during her voyage, any greater number of Passengers than one Adult Passenger for every twelve clear superficial feet on the lower or platform deck of such Vessel appropriated to the use of such Passengers and unoccupied by stores or other goods not being the personal luggage of such Passengers, or having on board or having had on board at any time during her voyage a greater number of persons, (including the Master and Crew and the cabin Passengers, if any,) than in the proportion of one person for every two tons of the tonnage of such Ship calculated in the manner used for ascertaining the tonnage of British Ships, the Master of such Vessel shall thereby incur a penalty of not less than ~~Two Pounds~~ Five Pounds for each passenger or person constituting such excess :

Number of Passengers limited according to size of Vessel.

Penalty on Master for contravention.

eight dollars twenty de

2. For the purposes of this section, each person of or above the age of fourteen * years shall be deemed an Adult, and two persons above the age of one year and under the age of fourteen * years shall be reckoned and taken as one Adult. 16 V. c. 86, s. 5.

What shall be deemed an Adult.

EMIGRANTS.—OBLIGATIONS OF MASTERS OF VESSELS BRINGING THEM.

2. And whereas Masters of Vessels are in the practice of embarking Passengers after the Vessel has been cleared and examined by the proper Officer at the Port of departure, and without delivering lists of such additional Passengers to some Officer to whom by law the same ought to be delivered ; for the prevention and punishment of such practice : For every Passenger not included in the list of Passengers by any Vessel sailing from a Port in Her Majesty's Dominions, delivered to the Collector of Customs at the Port of departure, or at the Port where such additional Passenger was embarked, or at the Port at which such Vessel touched after the embarkation of such Passenger, the Master of such Vessel shall, in addition to the same duty payable as aforesaid, and at the same time and under the same penalties, pay to the Collector of Customs at the Port of Quebec or Montreal, at whichever the said Vessel is first entered, the sum of ~~forty shillings currency~~ eight dollars for each Passenger ~~so embarked~~ as aforesaid and not included in one of the said lists. 16 V. c. 86, s. 3.

Penalty on Master embarking Passengers after leaving Port, &c.

eight dollars

4.

* Note.—This should be twelve years to agree with the Imperial Act on the same subject.

Twenty dollars

Act
Act

one hundred dollars

Penalty on Master allowing Passengers to leave his Vessel in Port, until the list is delivered, &c.

4. No Master of any Vessel arriving in either of the Ports last mentioned, shall permit any Passenger to leave the Vessel until he has delivered to the Collector of Customs at the Port, a certified and correct Passenger list in the form hereinafter mentioned, nor until such list has been certified to be correct and a certificate of such correctness and a permission to allow his Passengers to leave the Vessel, and a receipt for the duties payable by him under the provisions of this Chapter, has been given to him by the Collector of Customs, under a penalty of not less than ~~five pounds~~ ^{twenty five} ~~pounds~~ ¹⁰ currency, to be paid by the Master of the Vessel, for every Passenger leaving the same contrary to the provisions of this Chapter.

What the list of Passengers shall contain, &c.

2. The said list shall contain the name of each head of a family being a Passenger on board the Vessel, his profession or trade, his country and the place of his destination, and the number of adult persons and children belonging to his family on board such Vessel, and the name of each person not belonging to any family, with the like particulars of country, trade, profession and destination. 16 V. c. 86, s. 4.

Act

Passengers may leave before arriving at Quebec.

5. Nothing in this chapter shall prevent the Master of any Vessel from permitting any Passenger to leave the Vessel at the request of such Passenger before the arrival of the Vessel in the Harbour of Quebec, but in every such case, the names of the Passengers so leaving shall be entered in the manifest on the list of Emigrants made out at the time of the clearing of the Vessel from the United Kingdom or other part of Europe as aforesaid, and shall be certified under the signatures of the Passengers so leaving the Vessel; And if the number of Passengers remaining on board on the arrival of the Vessel in the Harbour of Quebec does not correspond with that mentioned in such manifest, after deducting the number who have so left the Vessel, the Master thereof shall incur a penalty of ~~five~~ ^{five} ~~pounds~~ ^{pounds} currency for each Passenger not found on board or entered on the manifest as having left the Vessel as aforesaid. 16 V. c. 86, s. 9.

Their names to be entered in the manifest, &c.

Penalty if the number on arrival and departure do not agree.

Twenty dollars

Act

Pilot to give information of Passengers leaving, &c.

6. Every Pilot who has had charge of any Vessel having Passengers on board, and knows that any Passenger has been permitted to leave the Vessel contrary to the provisions of this chapter, and who does not within twenty-four hours after the arrival of such Vessel in the Harbour to which he engaged to pilot her, inform the Collector of Customs thereat, that a Passenger or Passengers has or have been so permitted to leave the Vessel, shall incur a penalty not exceeding ~~five pounds~~ ^{five pounds} ~~currency~~ ^{currency}, for every Passenger with regard to whom he has wilfully neglected to give such information. 16 V. c. 86, s. 10.

Twenty dollars.

Penalty for not doing so.

REPORT BY THE MASTER.

7. The Master of any Passenger Vessel shall, within twenty-four hours after such Vessel arrives in the Port of Quebec or of Montreal, and before any entry of such Vessel shall be allowed, deliver to the Collector of Customs at the Port at which such Vessel is entered, a correct Report in the form of the Schedule ~~to this Act, of all the Passengers on board such Vessel at the time of her departure from the Port or place whence she cleared or sailed for this Province, and a true statement of the other particulars mentioned in the said form, under a penalty upon such Master of ~~Five Pounds~~ for each day during which he neglects so to deliver such list, after the expiration of the said twenty-four hours, and of ~~Two Pounds~~ for each Passenger whose name is omitted in such list.~~ 16 V. c. 86, s. 6. *

Master to report, &c.

What the port shall contain.

*Twenty dollars
eight dollars*

8. In addition to the particulars hereinbefore required in the list of Passengers to be delivered on each voyage by the master of any vessel carrying Passengers and arriving in either of the Ports of Quebec or Montreal, to the Collector of Customs at such Port, the Master shall report in writing to the Collector, the name and age of all Passengers embarked on board of such vessel on such voyage, who are lunatic, idiotic, deaf and dumb, blind or infirm, stating also whether they are accompanied by relatives able to support them :

Report to contain name and age of all Passengers who are lunatic, &c.

9. And if any Master of any such Vessel omits to report the particulars herein specified, or makes any false report in any such particulars, he shall incur a penalty of not less than ~~five pounds~~ and not exceeding ~~twenty five pounds currency~~, for every such Passenger in regard to whom any such omission has occurred or any such false report is made, for which penalty the owner or owners of the Vessel shall also be liable jointly and severally. 16 V. c. 86, s. 7.

Penalty for contravention.

*twenty dollars
one hundred dollars*

10. The said report shall further contain the name, age and last place of residence of any person who has died during the passage of the Vessel, and shall specify whether such passenger was accompanied by relatives or other persons, and the names of such relatives or other persons, who were entitled to take charge of the moneys and effects left by such Passenger ; and if there were no such relatives or other persons entitled to take charge of the same, then the report shall fully designate the quantity and description of the property (whether money or otherwise) left by such Passenger, and the said Master shall pay over and fully account for the same to the Collector of Customs for the Port at which the Vessel is entered :

Report further to contain name and age, &c., of those who have died, &c.

As to their money and effects, &c.

To be paid to the Collector of Customs, &c.

2.

* Note.—Sects. 3, 4, 5 of the Act of L. C., 6 G. 4, c. 8, are omitted, the Chief Emigrant Agent having informed the Commissioners that they are effete, and superseded by sect. 4 of this chapter, which contains all the requirements which it is practicable to enforce.

Collector to give receipt, &c.

Penalty on Master for contravention.

2. The Collector of Customs shall thereupon grant to such Master a receipt for all moneys or effects so placed in his hands by the Master, which receipt shall contain a full description of the nature or amount thereof; and if any Master of a Vessel shall neglect or refuse to make such report, or to pay over and account for any such moneys or effects, as required by this section, he shall incur a penalty of not less than ~~Five Pounds~~ and not exceeding ~~Two Hundred and Fifty Pounds currency~~ for every such case of neglect or refusal. 16 V. c. 86, s. 8.

*Twenty dollars.
one thousand dollars.*

INSPECTION OF EMIGRANTS, BOND, &c.

Medical Superintendent to inspect list of Passengers, &c.

10. The Medical Superintendent at the Quarantine Establishment shall, forthwith after the arrival thereof of any Vessel carrying Passengers, examine into their condition; and for that purpose the said Medical Superintendent, or other competent person thereunto appointed, may go on board and through any such Vessel and inspect the list of Passengers, and the Bill of Health, Manifest, Log Book or other papers of the Vessel, and, if necessary, take extracts from the same: 10

If Lunatics, &c., are found to be reported, &c.

2. If, on examination, there is found among such Passengers any Lunatic, Idiotic, Deaf and Dumb, Blind or Infirm Person, not belonging to any Emigrant family, and such person is, in the opinion of the Medical Superintendent, likely to become permanently a public charge, the Medical Superintendent shall forthwith report the same officially to the Collector of Customs at the Port of Quebec or of Montreal, at whichever the Vessel is to be first entered, who shall (except in the cases in which it is hereinafter provided that such bond may be dispensed with) require the Master of the Vessel, in addition to the duty payable for the Passengers generally, to execute, jointly and severally with two sufficient sureties, a Bond to Her Majesty in the sum of ~~Seventy Five pounds~~ currency, for every such Passenger so specially reported, conditioned to indemnify and save harmless this Province or any Municipality, Village, City, Town or County, or Charitable Institution within the same, from any expense or charge to be incurred within three years from the execution of the Bond, for the maintenance and support of any such Passenger; 25

Three hundred dollars.

Master of Vessel to execute Bond for every lunatic, &c., so reported, &c., with sureties.

Such sureties to be worth double the penalty.

3. The said sureties shall justify before and to the satisfaction of the said Collector, and by their Oath or Affirmation (which such Collector may administer) shall satisfy him that they are respectively residents in this Province, and each worth double the penalty of such Bond over and above all their debts and liabilities, personal and real; 40

Optional with Master to give Bond or pay money.

4. It shall be optional with the Master of such Vessel either to enter into such Bond, jointly and severally with sufficient sureties, as aforesaid, or to pay to the Collector of Customs who might otherwise require such Bond, such sum as the Chief Emigration 45

Emigration Agent at Quebec (under any general instructions from the Governor) has fixed in that behalf, as being just and equitable and sufficient to indemnify the Province or any Municipality, Village or City, Town or County, or Charitable Institution within the same, against the risk of expense for the care, support and maintenance of such Passenger or Passengers during the then next ensuing three years; and the money so paid shall form part of the Emigrant Fund; 16 V. c. 86, s. 12.

Money so paid to form part of Emigrant Fund.

5. And the Collector of Customs at the Port of Quebec, or at the Port of Montreal, as the case may be, may dispense with such bond, or money in lieu thereof, if it appears by the certificate of the Medical Superintendent at the Quarantine Establishment (which certificate the said Medical Superintendent may give) that the passenger with respect to whom such bond or money is required, has become lunatic, idiotic, deaf and dumb, blind or infirm, from some cause not existing or discernible at the time of the departure of the ship from the port where such Passenger embarked. 22 V. c. 3, s. 4.

Money and Bond to be dispensed with in case lunatic, &c., became so after departure of Vessel.

11. The Chief Agent for Emigration at Quebec may, with the sanction of the Governor in Council, make arrangements with the Master, Owner or Charterer of the vessel carrying the lunatic, idiotic, deaf and dumb, blind or infirm person with respect to whom a bond has been given, or money paid in lieu thereof, or with the Master, Owner or Charterer of any other vessel, for the reconveyance of such person to the port from which he was carried to this Province:

Such person may be reconveyed back to place of departure.

2. Money paid in lieu of or on breach of the condition of a Bond in any such case, or so much thereof as is necessary, may be applied to pay for such reconveyance of the person with respect to whom it has been paid, and when such person has been so reconveyed, the Bond so given may be cancelled, or the money paid in lieu thereof (deducting the passage money if any) may be returned, on the receipt by the said Chief Agent for Emigration at Quebec, of a certificate of the safe arrival of the lunatic, idiotic, deaf and dumb, blind or infirm person at the port from which he was brought as aforesaid, under the hand of the Chief Emigration Officer or British Consul there, or on proof satisfactory to such Chief Agent for Emigration of his having died during the voyage without any fault attaching to the Owner, Master, or any of the Crew of such vessel. 22 V. c. 3, s. 5.

Such reconveyance, how to be paid for.

12. If any Passenger, in respect of whom any Bond has been given as aforesaid, becomes at any time within three years from the execution thereof, chargeable upon this Province, or upon any Municipality, Village, City, Town, or County, or upon any Charitable Institution within this Province, the payment of such charge or expense incurred for the maintenance and support of such Passenger shall be provided

In case such Passenger becomes chargeable to the Province, &c.

for out of the moneys collected on and under such Bond, to the extent of the penalty therein contained or such portion thereof as is required for the payment of such charges or expenses. 16 V. c. 86, s. 13.

Penalty on Master of Vessel for neglecting to execute Bond, &c.

four hundred dollars.

Vessel not to be cleared on her return voyage till Bond has been executed, &c.

13. If the Master of any Vessel, on board which such Passenger specially reported as aforesaid has been carried, neglects or refuses to execute the said Bond, or to pay the sum which he may pay instead of giving such Bond forthwith, after the said Ship has been reported to the Collector of Customs, such Master shall incur a penalty of ~~One Hundred Pounds currency~~, and the said Vessel shall not be cleared on her return voyage until the said Bond has been executed or the said sum paid, nor until the said penalty has been paid, with all costs incurred on any prosecution for the recovery thereof. 16 V. c. 86, s. 14.

Bond to be transmitted to the Receiver General.

14. After any such Bond as aforesaid has been executed, the Collector of Customs shall transmit the same to the Receiver General of this Province, to be by him kept and held, during the said period of three years from the execution of the said Bond, or until the payment of the penalty therein mentioned (if incurred) has been enforced :

2/

Emigrant Agents to report upon any claim to indemnity for the support of any such specially reported Passenger.

For the purpose of ascertaining the necessity of such enforcement, the Chief Emigration Agents, in Upper and Lower Canada, upon representation made to either of them, in their respective portions of the said Province, shall ascertain the right and claim to indemnity for the maintenance and support of any such specially reported Passenger, and shall report the same to the Governor through the Provincial Secretary, and the said report shall be final and conclusive in the matter, and shall be evidence of the facts therein stated ;

3

Application of penalty.

And the said penalty, or so much thereof as is sufficient from time to time to defray the expense incurred for the maintenance and support of any Passenger for whom the said Bond was given as aforesaid, shall be prosecuted for and recovered by suit or information in Her Majesty's name, in any Court in this Province having jurisdiction in civil cases to the amount for which such suit or information is brought. 16 V. c. 86, s. 15.

How recovered.

PROVISIONS FOR THE PROTECTION OF PASSENGERS.

Passenger may remain on board forty-eight hours after arrival.

twenty dollars

Penalty on Master who compels Passenger to leave before.

15. Every Passenger on board any Vessel arriving in the Harbour to which the Master of such Vessel engaged to convey him, shall be entitled to remain and keep his baggage on board such vessel during forty-eight hours after her arrival in such Harbour ; and every such Master who compels any Passenger to leave his Vessel before the expiration of the said term of forty-eight hours, shall incur a penalty of not exceeding ~~Five Pounds currency~~, for every Passenger he so compels to leave his

his Vessel, nor shall the Master of the Vessel, remove before the expiration of the said forty-eight hours, any berthing or accommodation used by his Passengers, under a like penalty, except with the written permission of the Medical Superintendent at the Quarantine Station. 16 V. c. 86, s. 11.

16. The Master of any Vessel having Passengers on board shall land his Passengers and their Baggage free of expense to the said Passengers, at the usual Public Landing Places in the Port of Quebec, and at reasonable hours not earlier than six of the clock in the morning, and not later than four of the clock in the afternoon; and the Vessel shall, for the purpose of landing Passengers and Baggage, be anchored within the following limits in the said Port, to wit: the whole space of the River Saint Lawrence from the mouth of the River Saint Charles to a line drawn across the River Saint Lawrence, from the Flag-staff on the Citadel on Cape Diamond, at right angles to the course of the said River, under a penalty of ~~Ten Pounds~~ *Penalty for contravention.*, for any offence against the provisions of this clause. 16-V. c. 86, s. 16.

Passengers, to be landed free of expense and at proper hours.

For the landing of Passengers, Vessel to be within certain limits.

Penalty for contravention.

forty dollars

17. And for the purpose of securing to Foreign Emigrants, coming to this Province, the observance towards them during the voyage of the laws of the Country from which they are conveyed hither,—if during the voyage of any Vessel carrying Passengers or Emigrants from any Port not within the United Kingdom to either of the Ports of Quebec or Montreal, the Master, or any of the crew of such Vessel, are guilty of any infraction of the laws in force in the Country in which such Foreign Port is situate, regarding the duties of such Master or crew towards the Passengers in such Vessel,—or if the Master of any such Vessel shall during such voyage commit any breach whatever of the contract for the passage made with any Passenger or Emigrant by such Master, or by the Owner or Charterer of such ship, or any person acting on his behalf,—such Master or such one of the crew shall for any such offence be liable to a penalty of not less than twenty dollars, nor more than one hundred dollars, independently of any remedy which the party complaining otherwise has by law. 22 V. c. 3, s. 2.

Provisions as to Foreign Emigrants.

Foreign law to apply for certain purposes.

Penalty on Master for contravention.

act

18. Proof under this ~~chapter~~ of the law of a Foreign Country may be made by the testimony of any Consul for the Country from which the ship sailed; and the proof of the contract for his passage made by any such Emigrant in any such ship, sailing from any European Port not within the United Kingdom, may be made in all cases by the evidence of the parties to such contract. 22 V. c. 3, s. 3.

How proof of foreign law is to be made.

19. If any Steam Vessel bound for any place beyond the limits of the Port of Quebec upwards, goes alongside of any Vessel lying in the stream or elsewhere than at a wharf, within the Harbour of Quebec, and receives any Passenger from such Vessel,

Regulations as to Steamers receiving Passengers from Vessels.

Vessel, or receives any Passenger while such Steam Vessel is elsewhere than at some wharf in or adjoining the City of Quebec, such Steam Vessel shall after receiving such Passenger return to and remain at some wharf in or adjoining the said City during at least two hours before proceeding on her voyage, and shall during that time be provided with Gang-ways and proper conveniences by which the Passengers may pass from the said Steam Vessel to the shore, and back to the said Steam Vessel, with their families, goods and effects, under a penalty of ~~Ten Pounds currency~~, upon the Master of such Steam Vessel for any offence against the provisions of this section: except that such Steam Vessel may proceed on her voyage within the said two hours, if the Master thereof obtains from the Chief Emigration Agent at Quebec, a written permission to that effect. 16 V. c. 86, s. 17.

forty dollars
Penalty for contravention.

20. No person shall, within the Ports of Quebec or Montreal, or within ~~five~~ miles from the outer boundaries thereof, for hire, reward, or gain, or the expectation thereof, conduct, solicit, influence or recommend any Emigrant to or on behalf of any Steamboat Owner or Charterer, or to or on behalf of any Railway Company, or to or on behalf of any Lodging-House or Tavern-keeper for any purpose connected with the preparations or arrangements of such Emigrant for his passage to his final place of destination in this Province, or in the United States of America, or the Territories thereof, or give or pretend to give to such Emigrant any information or assistance in any way relating to such passage to his said place of destination, or in any way exercise the vocation of booking passengers or taking money for their inland fare or for the transportation of their luggage, unless such person has first obtained a license from the Mayor of the City or Municipality in this Province, within which such person resides, authorizing him to act in such capacity :

No person, without a license, to influence any Emigrant in favour of any Steamboat, Railroad, or Tavern-keeper, &c.

2. Such Mayor may grant such license on such person producing a recommendation from Her Majesty's Chief Agent for Emigration, or from the Government Emigration Agent at the place where the license is granted, to the effect that he is a proper person to receive such license, and on his giving a satisfactory bond to the Mayor, with ~~two~~ sufficient sureties, in the penal sum of three hundred dollars, as security for his good behaviour; and such license shall not be for any period longer than one year from its date; and such person shall pay for such license to the Corporation of such City or Municipality such sum, not exceeding one hundred dollars, as the Mayor and Council shall determine. 22 V. c. 3, s. 6.*

Mayor to grant such license on recommendation of Chief Emigration Agent.
Bond, with sureties.
Cost of license.

* ~~Note.~~ ^{Point} The Chief Emigrant suggests that there should be a penalty for acting without a license. This doing so is however a misdemeanor under the Interpretation Act. He thinks the license should expire on the 1st of January next after its date.

21. Every keeper of a Tavern, Hotel or Boarding-house in a City, or in any Town, Village or place to which the Governor in Council, by Proclamation published in the *Official Gazette*, declares that this section shall extend, who receives into his house, as a Boarder or Lodger, any Emigrant within three months from his arrival in this Province, shall cause to be kept conspicuously posted in the public rooms and passages of his house and printed upon business cards, a list of the rates of prices which will be charged to Emigrants per day and week for board or lodging, or both, and also the rates for separate meals, which card shall contain the name of the keeper of such house, together with the name of the street in which it is situated, and its number in such street :

Tavern-keepers, &c., to keep posted up list of prices, &c.

2. Every keeper of any such Tavern, Hotel or Boarding-house, neglecting or refusing to post a list of rates, or to keep business cards, or who charging or receiving, or permitting or suffering to be charged or received for boarding or lodging, or for meals in his house, any sum in excess of the rates of prices so posted and printed on such business cards, or omitting immediately on any Emigrant entering such house as a boarder or lodger for the purpose of taking any meal therein, to deliver to such Emigrant one of such printed business cards, shall, upon conviction of any of the said offences, be deprived of his license, and incur a penalty of not less than five dollars, nor more than twenty dollars ;

Penalty for contravention.

3. And no such Boarding-House Keeper, Hotel Keeper, or Tavern Keeper shall have any lien on the effects of such Emigrant for any amount claimed for such board or lodging, for any sum exceeding five dollars ; and any such person detaining the effects of any Emigrant after he has been tendered the said sum of five dollars, or such less sum as is actually due for board or lodging, shall, on conviction thereof, incur a penalty of not less than five dollars, nor more than twenty dollars, over and above the value of the effects so detained, if not immediately restored, and a search warrant may be issued for the same. 22 V. c. 3, s. 7.

Tavern-keeper to have no lien on the effects of any Emigrant for more than \$5.

QUARANTINE.

22. The Governor in Council may from time to time make such Regulations as he thinks proper for enforcing compliance with all the requirements of this chapter, and for ensuring the due performance of Quarantine, by and in respect of vessels, passengers and goods coming into the Port of Quebec, to which he thinks it right for the preservation of the Public Health that such Regulations should apply, and for the thorough cleansing and disinfecting of such vessels, goods and passengers, so as to prevent, as far as possible, the introduction or dissemination of disease into or in this Province, and may from time to time revoke, alter or amend such Regulations or any of them and make others in their stead :

Governor may make regulations to enforce compliance with the requirements of this chapter in respect of Quarantine, &c., &c.

Act

Such regulations to have the force of law, &c.

2. Such Regulations shall have the force of law during the time they respectively remain unrevoked, unless they be expressly limited to be in force only during a certain time or at certain times or seasons, in which case they shall have the force of law during the time and at the times and seasons during or at which they have been limited to be in force ;

What may be required from Masters of Vessels coming up the St. Lawrence.

3. By such Regulations the Governor in Council may require the Master of every vessel coming up the river St. Lawrence from below the Quarantine Station at Grosse-Isle, (except only such vessels as are therein designated and referred to as excepted) to bring his vessel to anchor at the place at the said Quarantine Station designated in the Regulations, and report such vessel in writing to the Officer at the said Station, designated for that purpose in such Regulations, with all the particulars relative to the same and to the voyage, passengers and cargo thereof, required by such regulations or by any Officer duly authorized under them to require the same, and to allow the proper Officer to visit and inspect such vessel and every part thereof, and the passengers and crew and the cargo and other articles on board the same, and to answer truly all questions asked of him touching the same, and to send on shore at the said Station and at the places there pointed out by the Officer thereunto authorized by the said Regulations, any or all of their passengers, crew, cargo or other articles on board such vessel, as the said Officer thinks necessary for preventing the introduction of contagious or infectious disease, and to allow such passengers, crew, cargo and other articles, and also the vessel itself, to remain so long at the said station and at such places thereat respectively, and to be so treated, cleansed and purified as the said Officer shall think necessary for the purpose aforesaid ;

Officers to have powers to carry these regulations into effect.

act

4. And by such Regulations the Governor in Council may assign to the several Officers and persons to be employed at the said Quarantine Station, the powers and duties necessary for carrying the said Regulations and this ~~chapter~~ fully into effect, and may declare that any such officer or persons shall by virtue of his office or employment, be a Justice of the Peace or a Constable or Peace Officer for Grosse-Isle and the said Quarantine Station, and for the space around the same described in such Regulations, and such officer shall accordingly be such Justice of the Peace or Peace Officer whether he be otherwise qualified or not ;

four hundred dollars

Governor may impose fines, &c.

5. And by such Regulations the Governor in Council may impose fines not exceeding one ~~hundred pounds~~ in any case, on persons contravening the same, and may provide that the offender shall be imprisoned until such fine be paid, and may direct that no vessel shall be entered or cleared at the Port of Quebec or of Montreal, until all the requirements of such Regulations are fully complied with, and may direct that any person, vessel

vessel or thing, who or which shall have passed or departed or been removed from the said Quarantine Station, before all the requirements of such Regulations have been complied with in respect of such person, vessel or thing, or without the written permission of the Officer empowered to authorize such passing or departure, may be compelled to return or be carried back to the said Station, and by force if necessary. 16 V. c. 86, s. 19.

23. The Quarantine Establishment at Grosse-Isle shall consist of a Superintendent of Emigration, and a Medical Superintendent, with such Medical Assistants, Hospital Stewards, Matrons, Nurses, Police Force and other Officers and Servants as the Governor in Council deems necessary, and as the Governor may appoint, and who shall receive such salaries, compensation or allowances as the Governor in Council thinks proper; and the Governor may appoint a Medical Officer at Quebec to board, visit and inspect such vessels in the Harbour of Quebec, and to perform such other duties and to have such powers as the Governor in Council may by any Regulation direct and appoint, and any such Regulation shall be held to be included in those which the Governor in Council is empowered to make by the next preceding clause, all the provisions whereof shall apply thereto, and such Medical Officer shall receive such salary or compensation as the Governor in Council thinks proper. 16 V. c. 86, s. 20.

Quarantine Establishment at Grosse Isle, of what to consist.

Medical Officer may be appointed in Quebec. His duties and powers.

Salary.

24. No Regulation made under either of the next foregoing clauses, and affecting others than the Officers and persons employed in carrying this chapter into effect or under the provisions thereof, shall have the force of law, until it has been published in the Official Gazette of this Province at least twice, allowing an interval of at least six days between each such publication. 16 V. c. 86, s. 21.

Regulations to be published in the Official Gazette, &c., before they have the force of law.

Act

RECOVERY OF DUTIES AND PENALTIES.

25. Every duty, penalty or forfeiture, imposed or declared under the authority of this chapter, shall be a special lien upon the vessel by reason whereof it has become payable, and the master whereof has become liable in such penalty, and may be enforced and collected by the seizure and sale of the vessel, her tackle apparel and furniture, under the warrant and process of the Justices or Court before whom it has been sued for and recovered, and shall be preferred to all other liens or hypothecations, except mariners' wages. 16 V. c. 86, s. 23.

Duties, penalties, &c., to be a special lien upon the vessel.

Act

26. All prosecutions for penalties under section twenty-one of this chapter may be brought at the place where the offender then is, before any Magistrate having jurisdiction in such place, at the suit of any Agent for Emigration in the employ, in this Province, of Her Majesty, and the penalties to be recovered

Where prosecutions shall be brought.

Act Rom/

recovered under the said clauses shall be paid to the Emigration Fund :

Distribution of penalty.

Costs.

Imprisonment.

2. The Magistrate before whom any such penalty is recovered may, in his discretion, award any part of the penalty to the party aggrieved by the infraction of law or breach of contract complained of, and may award costs against the offending party, as in the ordinary cases of summary proceedings, and may also award imprisonment for a period not exceeding three months to terminate on payment of any penalty incurred under the said clauses. 22 V. c. 3, s. 8.

eighty dollars of Act

Penalties under £20, how recoverable.

Act

With costs.

lighty dollars

Over £20, how recoverable.

Distribution of penalty

150

act

act

forty dollars

Offence, to be a misdemeanor, &c.

~~27. All penalties other than those referred to in the next preceding section imposed by this Chapter or by any Regulation made by the Governor in Council, under the provisions of this Chapter, and not exceeding twenty pounds in amount, shall be sued for by any Collector of Customs or by the Chief Emigration Agent at the Port of Quebec or of Montreal, and recovered with costs on the oath of one credible witness other than the prosecutor, in a summary manner, before any two Justices of the Peace in the City of Quebec or in the City of Montreal; and such Justices may commit the offender to the Common Gaol of the District until such penalty and costs are paid; and all such penalties exceeding the sum of Twenty Pounds, may be recovered by civil action by any such officer as aforesaid on like evidence in any Court of competent jurisdiction :~~

2. One moiety of every such penalty shall belong to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General to be applied to the purposes to which the other moneys levied under the authority of this Chapter are hereby appropriated, and the other moiety shall belong to the prosecutor;

3. But every offence against the provisions of this Chapter or any Regulation made under it, the penalty imposed for which by this Act or any such Regulation exceeds the sum of Ten Pounds, shall be a misdemeanor punishable by fine or imprisonment or both in the discretion of the Court before which the offender is convicted. 16 V. c. 36, s. 26.

Summons to be issued upon complaint, &c.

200
100

28. Upon complaint being made before any one Justice of the Peace, in any case over which two Justices have jurisdiction as aforesaid, he shall issue a Summons requiring the party complained against to appear on a day and at an hour and place to be named in such Summons, and every such Summons shall be served on the party offending or complained against, or shall be left at his place of residence or business, or on board any vessel to which he belongs.

The case to be proceeded

2. Either upon the appearance or default to appear of the party complained against, any two or more Justices may proceed summarily

summarily upon the case, and either with or without any written information, and upon proof of the offence or of the complainant's claim, either by confession of the party complained against, or upon the oath of at least one credible witness other than the Prosecutor (which oath such Justices may administer) the Justices may convict the offender, and upon such conviction order the offender or party complained against to pay the penalty imposed by this Chapter, or by any such Regulation as aforesaid, according to the nature of the offence, and also to pay the costs attending the information or complaint;

with summarily.
On conviction, offender to pay penalty and costs.

Act

3. If forthwith upon such order the moneys thereby ordered to be paid, are not paid, the same may be levied, with the costs of the distress and sale, by distress and sale of the goods and chattels of the party ordered to pay such moneys, the surplus, if any, to be returned to him upon demand; and any such Justices may issue their warrant accordingly, and may also order such party to be detained and kept in safe custody until return can conveniently be made to such Warrant of Distress, unless such party gives security to the satisfaction of such Justices for his appearance before them on the day appointed for such return, such day not being more than three days from the time of taking such security;

If not paid the same may be levied by distress and sale of the goods, &c.

4. But if it appears to such Justices by the admission of such party or otherwise, that no sufficient distress can be had whereon to levy the moneys so adjudged to be paid, they may, if they think fit, refrain from issuing a Warrant of Distress in the case, or if such Warrant has been issued, and upon the return thereof such insufficiency as aforesaid is made to appear to the Justices, or to any two or more of them, then such Justices shall, by Warrant, cause the party ordered to pay such moneys and costs as aforesaid, to be committed to Gaol, there to remain without bail for any term not exceeding three months, unless such moneys and costs ordered to be paid and such costs of distress and sale as aforesaid, be sooner paid and satisfied: But such imprisonment of a Master of any Vessel shall not discharge the Vessel from the lien or liability attached thereto by the provisions of this Chapter. 16 V. c. 86, s. 27.

If there are not sufficient goods, offender may be committed to gaol, &c.

Act

29. No conviction or proceeding under the four next preceding sections shall be quashed for want of form, or be removed by appeal or certiorari, or otherwise, into any of Her Majesty's Superior Courts of Record in this Province; and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be thereby alleged that the party has been convicted, and there be a good and valid conviction to sustain the same. 16 V. c. 86, s. 28.

Vessel still liable.

Act

Rom

No conviction, &c., to be quashed, or be removed by appeal, &c.

How?

MONEYS LEVIED AND EXPENDED.

30. All the expenses to be incurred in carrying the provisions of this Chapter into effect, or under the provisions thereof, shall be paid out of the moneys levied under its authority. 16 V. c. 86, s. 22.

Expenses, how paid.

Act

Act
= Act
= Act
=

Moneys levied to be paid by Collector to the Receiver General.

31. The moneys levied under this ~~Chapter~~ shall be paid by the Collector of Customs by whom they are received, into the hands of the Receiver General, for the purposes hereinafter mentioned. 16 V. c. 86, s. 24.

Application of moneys raised under this chapter.

32. The moneys, raised and received under this ~~Chapter~~ shall be applied by such Officers or persons and under such rules and regulations as the Governor of this Province may appoint and ~~make~~ from time to time for that purpose, as well in defraying the expenses of carrying this ~~Chapter~~ into effect and those of forwarding destitute Emigrants to their place of destination and in otherwise aiding, relieving and providing for them, as in defraying the expenses of Medical attendance and examination of destitute Emigrants on their arrival; and the Governor in Council may apply any surplus remaining out of the said moneys or those raised under the Acts repealed by the 16 Vict. cap. 86, after defraying the expenses aforesaid, in aid of any charitable institution affording relief to destitute Emigrants and their children. 16 V. c. 86, s. 25.

Act

Moneys to be accounted for.

33. Every person entrusted with the expenditure of any portion of the moneys hereby appropriated, shall make up a detailed accounts of such expenditure, shewing the sum advanced to the accountant, the balance (if any) remaining in his hands, and the amount of the moneys hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the Receiver General; and every such account shall be supported by voucher therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the thirty-first day of December in each year during which such expenditure is made, and shall be attested before a Justice of the Superior Court or a Justice of the Peace, and shall be transmitted to the Officer whose duty it is to receive such account, within fifteen days next after the expiration of the said periods respectively. 16 V. c. 86, s. 29.

done /

Account to be attested.

Account in detail to be laid before Parliament.

34. A detailed account of all such moneys as aforesaid shall be laid before the several branches of the Provincial Legislature within the first fifteen days of the then next session thereof. 16 V. c. 86, s. 30.

Act Interpretation.

INTERPRETATION.

35. In this ~~chapter~~, unless there be something in the context inconsistent with such interpretation, the word "Master," shall apply to any person in command of a Vessel; the word "Vessel" shall include all Ships, Vessels, or Craft of any kind carrying Passengers; the word "Passengers" shall apply to all Passengers as well as to Emigrants usually and commonly known and understood as such, but not to Troops or Military Pensioners and their families, who are carried in Transports or at the expense of the Imperial Government; the word "Quarantine" shall apply to Grosse-Isle, or other places at which such Quarantine is directed to be performed. *Ibid*, s. 31.

SCHEDULE

SCHEDULE A.

PARTICULARS RELATIVE TO THE VESSEL.

Vessel's Name.	Master's Name.	Tonnage.	From what Port or place.	Total number of Superficial feet in the several compartments set apart for Passengers other than Cabin Passengers.	Total number of adult Passengers exclusive of Master, Crew and Cabin Passengers, which the Vessel can legally carry.	Where bound.

35

NAMES AND DESCRIPTION OF PASSENGERS.

Port of Embarkation.	Names of Passengers.	Adults.		Children between 1 and 14.		Number of infants not over 1 year.	Profession, Occupation or calling of Passengers.	Nation or Country of Birth.	Port at which Passengers have contracted to be landed.	Any further particulars, as deaths, &c.		
		Age.	Male.	Female.	Age.						Male.	Female.

S U M M A R Y .

Adults	-	-	-	-	-	-	-	-	-	-
Children between 1 and 14	-	-	-	-	-	-	-	-	-	-
Infants not over 1	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-

I hereby certify that the above is a correct description of the (*description of Vessel as Ship, Brig, &c.*) (*Name of Vessel*) and a correct list of all the Passengers on Board the same at the time of her departure from (*place from whence she came*) and that all the particulars therein mentioned are true.

Signature of Master.

185 .

Date

Schedule to 16 V. c. 86.

T I T L E

TITLE 4.

TRADE AND COMMERCE.

CAP. XLI.

An Act respecting the Registration of Inland Vessels.

FOR better securing the right of property in Colonial Vessels, navigating the Inland Waters of this Province, and not registered as British Vessels under any Act of the Imperial Parliament in that behalf, and in order to facilitate transfers of Vessels, and to prevent the fraudulent assignment of the property of such Vessels: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. *Certificate of ownership and Registration.*

Right of ownership in any vessel to be registered.

1. All persons claiming property in any Vessel, over fifteen tons, shall cause their ownership in the same to be registered in manner hereinafter provided for, and shall obtain a certificate of the registry of such ownership, from the person authorized to make such registry and to grant such certificate, as hereinafter directed; the form of which certificate shall be as follows:

Form of certificate of ownership.

This is to certify that, in pursuance of the Act respecting the Registration of Inland Vessels, [here insert the names, occupations and residence of the subscribing owners], having made and subscribed the declaration required by the said Chapter; and having declared that he [or they] together with [names, occupations and residence of non-subscribing owners], is (or are) sole owner (or owners in the proportions specified on the back hereof) of the vessel called the [vessel's name], of [place to which she belongs], which is of the burthen of [number of tons], and whereof [master's name] is master; and that the said vessel was [when and where built, referring to builder's certificate or certificate of last ownership, then delivered up to be cancelled], and [name and employment of surveying officer] having certified to me that the said vessel has [number] decks and [number] masts, that her length from the fore part of the main stem, to the after part of the stern post aloft, is [number of feet and inches], her breadth at the broadest part [stating whether that be above or below the main wales] is [number of feet and inches], her [height between decks if more than one deck, or depth in the hold if only one deck] is [number of feet and inches] [if a steamer propelled by steam with an engine-room, state the length and tonnage of the engine-room, in feet and inches of length and tons], that she is [how rigged], rigged with a standing [or running] bowsprit, is [description of

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of stern] sterned, carved [or clinker] built, has [whether any or no] head; and the subscribing owners have consented and agreed to the above description; and their ownership or property in the said vessel called the [name], has been duly registered at the Port of [name of the Port]. Certified under my hand at the Custom House, in the said Port of [name of the Port], this [date] day of [name of the month], in the year [words at length].

[Signed], A. B., Collector.

10 And on the back of such certificate of ownership there shall be an account of the shares held by each of the owners mentioned in such certificate, in the form following: Indorsement of shares, or proportion of ownership.

15	Names of the several owners within mentioned :	|	Number of sixty-fourth shares held by each owner :
	[Name,		Thirty-two],
	[Name,		Sixteen],
	[Name,		Eight],
	[Name,		Eight].

20 (8 V. c. 5, s. 2.) [Signed], A. B., Collector.

2. The Collector of Her Majesty's Customs of any Port in this Province shall make such registry and grant such certificate of ownership: But no certificate of ownership shall be granted to any vessel not wholly built in this Province, and which does not wholly belong, and continue wholly to belong, to Her Majesty's subjects. *Ibid*, s. 3. Collector of Customs required to make registry and grant certificates of ownership.

3. Every vessel shall be deemed to belong to some Port, at or near to which some or one of the owners who make and subscribe the declaration required by this Act before register of ownership is made, reside; and no such certificate of ownership shall be granted by any Collector of Customs in any port or place other than the port or place to which such ship or vessel properly belongs; and every certificate granted in any port or place to which any such ship or vessel does not properly belong, shall be null and void. *Ibid*, s. 4. Certificates of ownership to be granted to vessels at the ports at which they belong.

4. At every port where registry of ownership is made in pursuance of this Act, a book shall be kept by the Collector, in which all the particulars contained in the form of the certificate of ownership hereinbefore directed to be used, shall be duly entered; and every registry of such ownership shall be numbered in progression, beginning such progressive numeration at the commencement of every year; and such Collector shall forthwith transmit to the ~~Inspector General~~, or such other officer Books of registry of ownership to be kept by the Collector.

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as the Governor may appoint for that purpose, a true and exact copy, together with the number of every certificate by him so granted. *Ibid*, s. 5.

Declaration to be made and subscribed before certificate of ownership is granted.

5. No certificate of ownership shall be granted until the following declaration is made and subscribed, before the Collector of Customs to whom application is made to grant a certificate of ownership, by the owner of such vessel, if such vessel is owned by one person only, or if there are two joint owners, then by both of such joint owners, if both are resident within twenty miles of the port or place where registry is required, or by one of such owners, if one or both be resident at a greater distance from such port or place; or if the number of such owners exceeds two, then by the greater part of the number of such owners, if the greater number of them be resident within twenty miles of such port or place (not in any case exceeding three of such owners, unless a greater number be desirous to join in making and subscribing the said declaration), or by one of such owners, if all or all except one, be resident at a greater distance :

Form of declaration to be made and subscribed by owner of a ship or vessel before receiving a certificate of ownership.

I, A. B., of [*place of residence and occupation*], solemnly declare, that the vessel [*name*], of [*port or place*], whereof [*master's name*] is at present master, being [*kind of build, burthen, &c., as described in the certificate of the surveying officer*], was [*when and where built*], and that I, the said A. B. [*and the other owners' names and occupations, if any, and where they respectively reside, as town, place, or parish or county*], am (or are) so owner (or owners) of the said vessel, and that no other person whatever hath any right, title, interest, share, or property therein or thereto : and that I, the said A. B., [*and the said other owners, if any,*] am (or are) truly and *bonâ fide* a subject (or subjects) of the British Crown, and that I, the said A. B., have not, nor hath any of the owners, to the best of my knowledge and belief, taken the oath of allegiance to any foreign state whatever : (or, he (or they) hath (or have) become a denizen or denizens (or naturalized subject or subjects) (as the case may be) of the British dominions (or Crown) by Her Majesty's letters patent (or by any Act of Parliament), [*naming the times when such letters of denization have been granted respectively, or the year or years in which such Act or Acts for naturalization have passed respectively*] : and that no foreigner, directly or indirectly, hath any share or interest in the said ship or vessel. *Ibid*, s. 6.

Form of declaration to be used when the owner is a corporation, &c.

6. Whenever it becomes necessary to register any vessel belonging to a corporation, joint stock company, or a limited partnership, the following declaration, in lieu of the declaration in the next preceding section mentioned, shall be taken and subscribed by the Secretary or any Director or Manager of such corporate body, or by any general partner of such limited partnership :

I,

I, A. B., Secretary (or as the case may be) of (name of corporation or limited partnership), do hereby declare, that the vessel (name), of (port), whereof (master's name) is at present master, being (kind of build, burden, &c., as described in the certificate of the surveying officer), was (when and where built), and that the same doth wholly and truly belong to (name of company, corporation, or limited partnership, describing in the case of a limited partnership, the time when and the county in which the certificate of partnership was made and registered).

The form.

13, 14 V. c. 24.

3. EXAMINATION AND MEASUREMENT OF THE VESSEL.

7. And, in order to enable the proper Collector of Customs to grant a certificate of ownership, truly and accurately describing every vessel to which a certificate is so granted, and also to enable all other Officers of the Customs, on due examination, to discover whether any such vessel is the same with that for which a certificate of ownership is alleged to have been granted : Before the granting of any certificate of ownership, some one or more person or persons appointed by the Governor, taking to his or their assistance, if he or they judge it necessary, one or more person or persons skilled in the building and admeasurement of vessels, shall go on board of every vessel to which such certificate of ownership is to be granted, and shall strictly and accurately examine and admeasure such vessel, as to all and every particular contained in the form of the certificate of ownership hereinbefore directed, in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or, in his or their absence, by the said master, and shall deliver a true account, in writing, of all such particulars of the build, description, and admeasurement of such vessel, as are specified in the form of the certificate of ownership above recited, to the Collector who may grant such certificate of ownership ; and the said master or other person attending on the part of the owner or owners, shall sign his name also to the certificate of such survey, in testimony of the truth thereof, if such master or other person agrees to the several particulars set forth therein. 8 V. c. 5, s. 7.

Vessels to be surveyed previous to certificate of ownership being granted.

8. For the purpose of ascertaining the tonnage of ships or vessels, the rule for admeasurement shall be the same as that contained in the Acts of the Imperial Parliament, that is to say :

Rule of admeasurement.

40 The tonnage of every vessel shall be measured and ascertained while her hold is clear, and according to the following rule, that is to say : Divide the length of the upper deck between the afterpart of the stem and the forepart of the sternpost into six equal parts. Depths :—at the foremost, the middle and the
45 aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the under side of the upper deck to the ceiling at the limber strake : in the case of a break in

in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. *Breadths* :—divide each of those three depths into five equal parts, and measure the inside breadths at the following points,—*videlicet*, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. *Length* :—at half the midship depth, measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost; Then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths : add together the upper and lower breadths at the foremost division, three-times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division for the sum of the breadths, then multiply the sum of the depths by the sum of the breadths and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register ; If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk head : multiply these three measurements together, and dividing the product by 92.4, the quotient will be the number of tons to be added to the result as above found : in order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake ; And for the purpose of ascertaining the tonnage of vessels which there shall be occasion to measure while their cargoes are on board,—the following rule shall be observed, that is to say : measure first the length on the upper deck between the after part of the stem and the forepart of the sternpost ; secondly, the inside breadth on the under side of the upper deck, at the middle point of the length ; and thirdly, the depth from the under side of the upper deck down the pumpwell to the skin ; multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ship or vessel.—If the vessel have a poop or half deck or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulkhead, multiply these three measurements together, and dividing the product by ninety-two and four-tenths, the quotient will be the number of tons to be added to the result above found :

Proviso
as to steam
vessels.

2. Provided always, that in each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel ; the tonnage due to the cubical contents of the engine room shall be determined in the following manner, that is to say : Measure the inside length

length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulkhead, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room: Provided also, that the tonnage due to the cubical contents of the engine room, and also the length of the engine room shall be set forth in the certificate of ownership as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room, or of such length of the engine room after the granting of such certificate, shall be deemed to be an alteration requiring a certificate *de novo* within the meaning of this Act; And provided also, that the true tonnage of every vessel to be ascertained under this Act, shall be deeply carved or cut in figures of at least three inches in length on the main-beam of every such vessel, prior to the issue of the certificate of ownership. *Ibid*, s. 8.

3. CHANGE OF MASTER.—NAME OF VESSEL NOT TO BE CHANGED.

9. When and so often as the master of any vessel to which a certificate of ownership has been granted, is changed, the master shall deliver the certificate of ownership of such vessel, to the person authorized to grant such certificate at the port where such change is to take place, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such vessel received its certificate of ownership, who shall likewise make a memorandum of the same in the book of registry of ownerships, hereby required to be kept. *Ibid*, s. 9.

When Master is changed, his name to be indorsed on certificate of ownership.

10. The owner of any vessel shall not give any name to such vessel other than that by which she was called when first granted a certificate of ownership: And the owner of every vessel to which a certificate of ownership has been granted, shall, before such vessel, after having received certificate of ownership, begins to take in any cargo, cause to be painted in white or yellow letters not less than four inches in length upon a black ground, on some conspicuous part of the stern, the name by which such vessel has been granted certificate of ownership, and the port to which she belongs, in a distinct and legible manner, and shall keep the same so painted: And if the owner or master of such vessel, permits her to take in any cargo before her name has been so painted as aforesaid, or wilfully alters, erases, obliterates, or in any wise conceals such name, or causes, or permits the same to be done, or, in any paper or document, describes such vessel by any name other than that by which

Name of vessel for which certificate of ownership has been granted, never after to be changed, and to be painted on the stern.

Penalty for contravention.

eighty dollars.

which she was first named in her certificate of ownership, or verbally describes, or causes, or permits, such vessel to be described by any other name, to any officer of the revenue, in the execution of his duty, then, and in every such case, such owner or master of such vessel shall incur a penalty of ~~twenty~~ ⁵ ~~pounds~~. *Ibid*, s. 10.

4. BUILDER'S CERTIFICATE, &c.

11. Every person who shall apply for a certificate of ownership for any vessel, shall produce to the person authorized to grant the same, a true and full account, under the hand of the builder of such vessel, of the proper denomination, and of the time when, and the place where such vessel was built, and also an exact account of the tonnage of such vessel, with the name of the first purchaser thereof, (which account such builder is hereby required to give under his hand, on the same being demanded by the person so applying for a certificate of ownership,) and shall also make and subscribe a declaration before the person hereinbefore authorized to grant such certificate, that the vessel for which such certificate is required, is the same with that so described by the builder: Provided always, that if by reason of the death or absence of the builder of any vessel, or other cause, it is not possible for the owner thereof to procure a builder's certificate, it shall be competent for the Governor, on application to him, and on being satisfied for the justice, to cause the Collector at any port to grant a certificate of ownership, notwithstanding the builder's certificate be not produced to him. *Ibid*, s. 11.

Builder's certificate of particulars of ship or vessel.

Declaration to be made therein.

Proviso.

When vessels are altered to a certain extent, certificates of ownership to be granted *de novo*.

12. If any vessel after receiving certificate of ownership, is in any manner altered so as not to correspond with all the particulars contained in such certificate, the owner of such vessel shall return the said certificate to the Collector of the port where it was granted, and the Collector shall grant a certificate of ownership *de novo*, and for any neglect in contravention of this section, the owner of such vessel shall incur a penalty of the sum of ~~twenty~~ ³⁰ ~~pounds~~. *Ibid*, s. 12.

eighty dollars.

5. SHARES AND TRANSFER OF SHARES.

13. When and so often as the property in any vessel or any part thereof, belonging to any of Her Majesty's subjects is, after being granted certificate of ownership, sold to any other of Her Majesty's subjects, the same shall be transferred by bill of sale or other instrument in writing, containing a recital of the certificate of ownership of such vessel, or the principal contents thereof, otherwise such transfer shall not be valid for any purpose either in law or equity: But no bill of sale shall be void by reason of any error in such recital, or by the recital of any former certificate of ownership instead of the existing certificate, if the identity of the vessel intended be effectually proved thereby. *Ibid*, s. 13.



Property in vessels to be transferred by bill of sale.

Bill of sale not void by unimportant error in recital.

14.

14. The property in every vessel belonging to more than one owner, shall be considered to be divided into sixty-four equal shares, and the proportion held by each owner shall be described in the certificate of ownership as being a certain number of sixty-fourth shares ; and no person shall be entitled to be registered as an owner of any vessel, in respect of any shares in such vessel which shall not be an integral sixty-fourth share of the same ; and upon the first application for a certificate of ownership of any vessel, the owner or owners who shall take and subscribe the declaration required before a certificate of ownership is granted, shall also declare the number of such shares then held by each owner, and the same shall be registered accordingly :

Property in vessels to be divided in 64 parts or shares.

Declaration upon first registry to state the number of such shares held by each owner.

2) But if at any time the property of any owner of any vessel cannot be reduced by division into any number of integral sixty-fourth shares, the right of such owner to any such fractional parts shall not be affected by reason of their not having been registered ;

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3) And any number of owners named and described in the certificate of ownership, being partners in any house or co-partnership carrying on trade in any part of Her Majesty's Dominions, may hold any vessel or any shares in any vessel, in the name of such house or co-partnership as joint owners thereof, without distinguishing the proportionate interest of each of such owners ; and such vessel or every share thereof so held in co-partnership, shall be deemed to be partnership property, to all intents, and shall be governed by the same rules, both in law and equity, as other partnership property in any other chattels. *Ibid*, s. 14.

Proviso.

15. No greater number than thirty-two persons shall be legal owners at the same time of any vessel, as tenants in common, or be registered as such : But nothing herein contained shall affect the equitable title of minors, heirs, legatees, creditors or others, exceeding the said number, duly represented by or holding from any of the persons within the said number, registered as legal owners of shares in such ship or vessel. *Ibid*, s. 15.

Not more than 32 persons to be owner of any ship or vessel at one time.

Proviso.

16. No bill of sale shall pass the property in any vessel, or in any share thereof, after a certificate of ownership has been granted to such vessel, or have any other effect, until it has been produced to the Collector of the port at which such vessel received a certificate of ownership, or to the Collector of the port at which she is about to receive certificate of ownership *de novo*, nor until such Collector has entered in the book of registry of ownership, in the one case, or in the book of registry of ownership *de novo*, after all the requisites of law for such Register *de novo* shall have been duly complied with, in the other case, (and which such Collector is hereby required to do upon the production of

Bill of sale not to be effectual until produced to the Collector.

And entered in the book of registry of ownership.

of the bill of sale for that purpose), the name, residence and description of the vendor or mortgagor, or of each vendor or mortgagor, if more than one, the number of shares transferred, the name, residence and description of the purchaser or mortgagee, or of each purchaser or mortgagee, if more than one, and the date of the bill of sale, and of the production of it; and further, if such ship or vessel is not about to receive a certificate of ownership *de novo*, the Collector of the port where such ship is registered shall indorse the said particulars of such bill of sale on the certificate of ownership of the vessel, when the same shall be produced to him for that purpose, in the manner or to the effect following :

Form of indorsement.

Custom House (*port and date ; name, residence and description of vendor or mortgagor,*) has transferred by (*bill of sale or other instrument,*) dated (*date,*) number of shares to (*name, residence and description of purchaser or mortgagor.*)

A. B. Collector.

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Notice to Inspector General.

And shall forthwith give notice thereof to the ~~Inspector General~~ or other officer to whom the copies of certificates are to be transmitted : and if the Collector is desired so to do, and the bill of sale is produced to him for that purpose, he shall certify by indorsement thereon that the particulars before mentioned have been so entered in the book of registry of certificates of ownership, and indorsed upon the certificate of ownership as aforesaid. *Ibid*, s. 16.

Entry of bill of sale to be valid.

17. When the particulars of any bill of sale by which any vessel or any share thereof, is transferred, has been so entered in the book of registry of certificates of ownership, such bill of sale shall pass the property thereby intended to be transferred, as against every person, and to all intents, except as against subsequent purchasers and mortgagees who shall first procure the indorsement to be made upon the certificate of ownership of such vessel as hereinafter mentioned. *Ibid*, s. 17.

Except in certain cases.

When a bill of sale has been entered for any shares, 30 days shall be allowed for indorsing the certificate of ownership, before any other bill of sale for the same shall be entered.

18. When the particulars of any bill of sale, by which any vessel, or any share thereof is transferred, has been so entered in the book of registry of certificates of ownership, the Collector shall not enter in the said book the particulars of any other bill of sale, purporting to be a transfer by the same vendor or mortgagor, of the same vessel or share thereof, to any other person, unless thirty days have elapsed from the day on which the particulars of the former bill of sale were entered in the said book of registry, or, if the vessel was absent from the port to which she belonged, at the time when the particulars of such former bill of sale were entered in the said book, then, unless thirty days have elapsed from the day on which the vessel arrived at the port to which she belongs : and in case the particulars of two or more such bills of sale have been entered

entered in the book of registry, with respect to the same vessel, the Collector shall not enter in the book of registry the particulars of any other bill of sale, unless thirty days have elapsed from the day on which the particulars of the last of such bills of sale were entered in the book of registry, or from the day on which the vessel arrived at the port to which she belongs, in case of her absence as aforesaid :

2. And in every case where there are at any time two or more transfers by the same owner of the same property in any vessel so entered in the book of registry, the Collector shall indorse upon the certificate of ownership of such vessel, the particulars of that bill of sale, under which the person claims property, who shall produce the said certificate for that purpose, within the thirty days next after the entry of his bill of sale in the book of registry, or within thirty days next after the return of the vessel to the port to which she belongs, in case of her absence at the time of such entry, and if no person produces the certificate of ownership within either of the said spaces of thirty days, then the Collector shall indorse upon such certificate the particulars of the bill of sale to the person who has first produced the certificate for that purpose ; it being the intent of this Act that the several purchasers and mortgagees of any vessel or of any share thereof, when more than one appears to claim the same property, or to claim security on the same property, in the same rank and degree, shall have priority one over the other, not according to the respective times when the particulars of the bill of sale by which such property was transferred to them, were entered in the book of registry, but according to the time when the endorsement is made upon the certificate of ownership ;

Nature of the priority intended by this chapter.

3. But if the certificate of ownership is lost, or detained by any person, so that the indorsement cannot in due time be made thereon, and if proof thereof is made by the purchaser or mortgagee, or his known agent, to the satisfaction of the ~~Inspector General~~ or other officer to whom the copies of certificates of ownership are to be transmitted, the ~~Inspector General~~ or such other officer, may grant such further time as to him appears necessary for the recovery of the certificate of ownership, or for the registry of ownership *de novo*, of the vessel under the provisions of this Act ; and thereupon the Collector shall make a memorandum in the book of registry of certificates of ownership of the further time so granted, and during such time no other bill of sale shall be entered for the transfer of the same vessel, or the same share thereof, or for giving the same security thereon. *Ibid*, s. 18.

If the certificate be mislaid.

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19. If the certificate of ownership of such vessel is produced to the Collector of any port where she is, then after any such bill of sale has been recorded at the port to which she belongs, together with such bill of sale having upon it a notification of

Bill of sale may be produced after entry at other ports than

those to which vessels belong, and transfer indorsed on certificate of ownership.

of such record, signed by the Collector of such port as before directed, the Collector of such other port may endorse on such certificate of ownership, (being required so to do,) the transfer mentioned in such bill of sale; and such Collector shall give notice thereof to the Collector of the port to which such vessel belongs, who shall record the same as if he had made such indorsement himself, but inserting the name of the port at which such indorsement was made: Provided always, that the Collector of such other port shall first give notice to the Collector of the port to which such vessel belongs, of such requisition made to him to indorse the certificate of ownership, and the Collector of the port to which such vessel belongs shall thereupon send information to the Collector of such other port, whether any and what other bill or bills of sale have been recorded in the book of the registry with respect to such vessel, and the Collector of such other port, having such information, shall proceed as directed by this ~~chapter~~ in all respects, to the indorsing of the certificate of ownership, as he would do if such port were the port to which such vessel belonged. *Ibid*, s. 19.

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6. CERTIFICATE OF OWNERSHIP DE NOVO.

If upon granting certificate of ownership *de novo*, any bill of sale has not been recorded, the same shall then be produced.

Exception.

20. If it becomes necessary to grant a certificate of ownership to any vessel *de novo*, and any share of such vessel has been sold since she had last received certificate of ownership, and the transfer of such share has not been recorded and indorsed as hereinbefore directed, the bill of sale thereof shall be produced to the collector who is to make registry of such vessel, otherwise such sale shall not be noticed in the certificate of ownership *de novo*, except upon the future production of such bill of sale, and of the existing certificate of ownership of such such transfer shall be recorded and indorsed, after such certificate of ownership *de novo* is granted. *Ibid*, s. 20.

Upon change of property, certificate of ownership *de novo* may be granted, if desired, although not required by this chapter.

21. If upon any change of property in any ship or vessel the owner desires to have a certificate of ownership *de novo*, although not required by this Act, and the owner or proper number of owners attend at the Custom House at the port to which such vessel belongs, for that purpose, the Collector at such port may grant a certificate of ownership *de novo* of such vessel at the same port, and record the same in the book of registry of certificates of ownership, the previous requirements of this ~~chapter~~ being first complied with. *Ibid*, s. 21.

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7. EVIDENCE OF OWNERSHIP, &c.

22. And for avoiding inconvenience and expense at trials where the ownership of vessels comes in question---

Copies of declarations,

The Collector of Customs at any Port or place shall, on the reasonable request of any person, produce and exhibit for such person's

person's inspection and examination, any oath or declaration sworn or made by any owner, or other person, under this Act, and also any register or entry in any book of registry required by this Act, relative to any vessel, and shall permit such person to take copies or extracts thereof respectively: And the copy of any such oath or declaration, register or entry, shall, on being proved to be a true copy or copies thereof, be received as evidence upon every trial at law, without the production of the original, and without the testimony or attendance of the Collector or other person acting for him. *Ibid*, s. 22.

&c., and of extracts from books of registry admitted in evidence.

23. When a transfer of a vessel, or of any share thereof, is made ~~only as~~ a security for the payment of money, either by way of mortgage or of assignment in trust for the purpose of selling the same for the payment of such money, the Collector of the port where the vessel is registered, shall in the entry in the book of registry, and also in his indorsement on the certificate of ownership, state that such transfer is made only as a security for the payment of money, or by way of mortgage, or to that effect; and the person to whom such transfer is made, or any person claiming under him as a mortgagee, or as a trustee only, shall not by reason thereof be deemed to be the owner of such vessel, nor shall the person making such transfer be deemed by reason thereof, to have ceased to be an owner of such vessel, except in so far only as may be necessary for the purpose of rendering the vessel, or share so transferred, available by sale or otherwise, for the payment of the money, for securing the payment of which such transfer was made. *Ibid*, s. 23.

Transfers by way of mortgage.

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Mortgagee not to be deemed an owner.

24. When any transfer of a vessel, or of any share thereof, is made as a security for the payment of money, either by way of mortgage or of assignment as aforesaid, and such transfer has been duly registered under this ~~chapter~~, the right or interest of the mortgagee or assignee, shall not be affected by any act of bankruptcy committed by such mortgagor or assignor, after such mortgage or assignment is so registered, notwithstanding such mortgagor or assignor, when he so becomes bankrupt has in his possession, order or disposition, and is the reputed owner of the vessel, or share thereof, so by him mortgaged or assigned; but such mortgage or assignment shall take place of and be preferred to any right, claim or interest of the assignee of such bankrupt in such vessel, or share thereof. *Ibid*, s. 24.

Transfers of ships for security of debts being registered, rights of mortgagee not affected by any act of bankruptcy of mortgagor, &c.

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8. OFFENCES AGAINST THIS ~~CHAPTER~~, AND PENALTIES.

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25. Every person who falsely declares to any of the matters hereinbefore required to be verified by declaration, or counterfeits, erases, alters or falsifies any certificate or other instrument in writing, required or directed by this ~~chapter~~, to be obtained, granted or produced, or knowingly or wilfully makes use of any certificate or other instrument, so counterfeited, erased,

Penalty on persons making false declaration or falsifying any document.

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one hundred and eighty six dollars

erased, altered or falsified, or wilfully grants such certificate or other instrument in writing knowing it to be false, shall, for every such offence, incur a penalty of one hundred pounds sterling. *Ibid*, s. 25.

How penalties are to be recovered.

26. The penalties incurred under this chapter may be recovered and disposed of in the like manner as penalties incurred for offences committed against any law relating to the Customs; and the officers concerned in seizures or prosecutions under this chapter, shall respectively receive the same share of the proceeds of such seizures, as in the case of seizures for unlawful importation, and such share of the proceeds of any pecuniary penalty for any offence against this chapter, as any officers are entitled to upon prosecutions for pecuniary penalties. *Ibid*, s. 26.

9. DURATION OF THIS CHAPTER, —AND INTERPRETATION.

Act

This chapter to cease when Imperial Acts regulating registration of British vessels are extended to the inland waters.

27. Provided always, That this chapter shall cease and terminate as to any further registration under it, whenever the laws of the United Kingdom for the registering of British ships are extended to vessels navigating the inland waters of this Province, and not proceeding to sea; except that all things done under the provisions of this Act, and all rights acquired by virtue of such provisions, shall remain good and valid, and all penalties and forfeitures incurred, may be sued for and enforced; and all prosecutions for any such penalty or forfeiture incurred, may be continued and completed as if this Act had not so ceased. *Ibid*, s. 27.

Interpretation.

28. In this Act, the word "Vessel" means any vessel used in navigation and of a greater burthen than fifteen tons; the word "Owner" includes any number of owners, unless such construction is inconsistent with the context; the word "Master" means any person having the charge or command of a vessel, except merely as a pilot or for some other special and temporary purpose; the expression "Bill of Sale" includes any instruments intended to operate the transfer of a vessel or share; and the mention of any officer or person includes his deputy or other person who may lawfully act for him or instead of him in the case in question.

Act
Act
Act
Act
Act

C A P . X L I I .

An Act for the encouragement of Ship-building.

FOR the encouragement of Ship-building, by removing all doubts as to the security of parties advancing money on Ships in the progress of construction: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. So soon as the keel of a vessel is laid within this Province, the owner thereof may mortgage, hypothecate and grant a privilege or lien on the said vessel to any person contracting to advance money or goods for the completion thereof, and such mortgage, hypothecation and privilege shall apply and attach not only on and to that portion of the vessel constructed at the time of the granting of the same, but also to and on the said vessel during her construction and afterwards, until it shall be removed by payment or by the contracting parties:
- Vessel may be hypothecated so soon as the keel is laid.
2. But such owner shall not grant more than one such mortgage, hypothecation and privilege, without the express consent of the first advancer, and every subsequent grant without such consent shall be void. 19, 20 V. c. 50, s. 1.
- Only one such hypothec to be valid except, &c.
3. The said contracting parties may also agree that the vessel whereof the keel is laid as aforesaid, shall be the property of the party advancing thereon as aforesaid, so that such advancer may obtain the register of the vessel and sell the same and grant a good and clear title therefor; and such agreement shall *ipso facto* transfer to the advancer for the purposes aforesaid and for the security of the said advances, not only the property of the portion of the vessel then constructed, but of such vessel up to and after completion, and the said advancer shall give and grant the builder's certificate for such vessel:
- The property of the vessel may be assigned.
- Effect of assignment.
4. But nothing herein shall take away the right of the owner to his action of account, or such other remedy as the law affords him against the advancer. *Ibid*, s. 2.
- Owner's action of account saved.
5. The first advancer may in like manner mortgage, hypothecate and grant a privilege or lien, and transfer as aforesaid, to any subsequent advancer, and so may any subsequent advancer to another, provided the formalities required by this chapter are followed, but not otherwise; And the owner shall then have his legal recourse against the first and subsequent advancer or advancers for an account jointly and severally. *Ibid*, s. 3.
- First advancer may grant hypothec, &c.
6. The proper officer shall grant the register of such vessel to the advancer or his duly authorized agent producing an authentic copy of such contract, or the original when not passed before
- Register to be granted to party pro-before

Act

ducing the proper contract, &c.

And if no contract be registered.

Contracts under this chapter must be registered, and where.

Form of memorial for registration, and proof thereof.

Contract to be produced to Registrar.

Effect of certificate of registration.

As to memorials not made within the County where the keel is laid.

before a Notary, with the certificate of registration endorsed thereon of the Registrar of the County or place where such vessel has been built; and in the case of more than one advancer, then to the advancer last in date duly registered as aforesaid; and such first or subsequent advancer, as the case may be, shall grant the builder's certificate; And if the owner produce a certificate that no such contract has been registered, he shall grant the builder's certificate and receive the register. *Ibid*, s. 4. 5

5. Every contract to be made under this chapter must be passed in due form before a Notary Public or in duplicate before two witnesses, and such contract or a memorial thereof must be registered in the Registry Office of the County or place where the vessel is building or built; and such contract and the rights thereon shall only avail and accrue from the date of such registration; and unless such contract be so made and registered as aforesaid, this Act shall in no way enure to the benefit of the contracting parties or any of them. *Ibid*, s. 5. 10 15

6. Every memorial to be registered as aforesaid shall be in writing under the hand of the advancer and attested by two witnesses, and shall contain a description of the vessel, the designation of the ship-yard or place where she has been or is being built, the amount in money or goods to be advanced, with the names and additions and residences of the contracting parties and of the witnesses, and the date of the contract, and where the same had been passed before a Notary, the name of such Notary, and shall be delivered to the Registrar at the office where it is to be registered, and shall be acknowledged by the advancer or advancers by whom it has been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said Registrar who is hereby empowered to administer the said oath: 20 25 30

2. And with every such memorial there shall be produced to the said Registrar the contract of which such memorial is to be registered, or a Notarial copy thereof if the original be executed in Notarial Form, and in the custody of a Notary, or such office copy as may have validity; and the Registrar shall endorse and sign the usual certificate of the registration thereof, and such certificate shall be evidence of such Registry; 35

3. But any such memorial made at any place within this Province not within the Registration County or division wherein the keel of the vessel referred to lies, shall be registered on the delivery to the Registrar of an affidavit sworn before any one of the Judges of the Court of Queen's Bench, or of the Superior Court, or of the Common Pleas, by which the execution of such memorial shall be proved by one of the witnesses to the same or by the advancer or advancers, or one of them; 40 45

Act

4. And any memorial made in Great Britain or Ireland, or in any of the Colonies or possessions of the Crown of the United Kingdom, other than this Province, shall be registered upon the delivery to the Registrar of an affidavit sworn before the Mayor or Chief Magistrate of any City, Borough or Town Corporate in Great Britain or Ireland, or the Chief Justice or Judge of any Supreme Court of any such Colony or possession, by which the execution of such memorial shall be proved by the advancer or one of the advancers by any one of the witnesses to the same ;
- 5 And Registrars shall charge the same fees for such registration and for certificates of search or other documents as in other cases, and shall keep a separate book therefor. *Ibid*, s. 6.
7. This ~~chapter~~ shall not deprive any party of any legal right, action, lien, privilege or hypothec, which by law he had at the time of making any such contract, nor up to the time of registration as aforesaid, nor deprive any person of his right to have an account where by law he is entitled thereto. *Ibid*, s. 7.
8. In this ~~chapter~~, the word "Registrar" includes the Deputy Registrar, the word "Advancer" includes any number of joint Advancers under the same contract, and the word "Vessel" means any Ship or Vessel used in navigation.

As to memorials made in Great Britain or Ireland or in the Colonies.

Fees for registration, &c.

Rights preserved.

Interpretation.

CAP. XLIII.

An Act for more effectually preventing the desertion of Seamen.

IN order to provide more effectually for the prevention of the desertion of Seamen at the Port of Quebec : Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Penalty for soliciting, &c., seamen to desert.

1. Any person who directly or indirectly persuades, procures, aids or solicits any Seaman or Apprentice to desert or leave his ship, shall incur a penalty of not more than ~~ten pounds~~ nor less than ~~five pounds~~ for every Seaman or Apprentice who so deserts, or whom he persuades, procures, aids or solicits to desert. 16 V. c. 165, s. 1. 10

Penalty for harboring deserters.

2. Any person who knowingly harbours or secretes any Seaman or Apprentice who has deserted from his ship, shall for every such offence incur a penalty not exceeding ~~ten pounds~~ nor less than ~~two pounds~~. Ibid, s. 2.

Loitering near vessels, receiving clothes, &c.

3. Any person found loitering near any vessel in a boat or other water craft, and not giving a satisfactory account of his business there, or found taking or receiving any clothing or other articles from on board any vessel without the permission of the master or person in charge thereof, shall incur a penalty not exceeding ~~five pounds~~ and not less than ~~two pounds~~, and shall be imprisoned during a period not exceeding three months nor less than one month. Ibid, s. 3.

Boats, &c., found so loitering may be detained until penalty be paid.

4. The Inspector and Superintendent of Police at Quebec may order any boat or other water craft in or on which any such person or clothing or other articles as mentioned in the next preceding section, and unlawfully taken from any vessel, are found or have been conveyed, to be detained until the full payment of the penalty which such person shall be condemned to pay, and in case such penalty be not paid before the expiration of the term of imprisonment to which such person has been condemned, the boat so detained shall be sold by public auction, and the proceeds of the sale thereof shall be appropriated to the payment of the penalty. Ibid, s. 4.

Penalty on persons going on board vessels without lawful authority.

5. Any person other than such persons as are duly authorized by law, who, without the permission of the master or person in charge thereof, goes on board any vessel arriving at or being in the Port of Quebec, for any other purpose than that of passing from such vessel to another lying alongside, shall incur a penalty not exceeding ~~twenty pounds~~ nor less than ~~two pounds~~; and every such master or person in charge of such vessel may take into custody any person so offending, and deliver

forty dollars
twenty dollars

forty dollars
eight dollars

twenty dollars
eight dollars

eighty dollars
eight dollars

deliver him forthwith to the custody of any Peace Officer, by whom he shall be taken before some Justice of the Peace :

4 But if any such offender be arrested after the hour of five in the evening and before the hour of eight in the morning, or at any time during Sunday or a Holiday, he shall be detained at the nearest Police Station until the hour of ten in the forenoon next following such arrest on Sunday or such Holiday, and shall then be brought before any Justice of the Peace. *Ibid*, s. 5.

Such persons may be detained.

6. The owner, master or person in charge of any vessel who pays in advance in any manner whatsoever other than in money, or makes or delivers any note, bill, order, promise, undertaking or otherwise, for the payment of any part of the wages of any Seaman hired or engaged to be entered on board the said vessel, before the ship's articles have been duly signed by such Seaman and by the Owner, Master or person in charge of such vessel, or makes an advance in money to any Seaman of any sum larger than ~~one pound~~, shall incur a penalty not exceeding ~~five pounds~~ and not less than ~~two pounds~~; and all payments and promises of payment, bills, notes or orders, made contrary to the above provisions, shall be to all intents and purposes null and void, whether in the hands of the person to whom they were made or delivered or of any third party : and any person paying any such bill, note, order or undertaking, knowing it to be void under this chapter, shall thereby incur the penalty aforesaid. *Ibid*, s. 6.

Payments in advance to seamen must be in money only ; and advances in money limited.

four dollars

Twenty dollars
eight dollars

Penalties for contravention.

Act

7. No debt exceeding the sum of ~~five shillings~~, incurred by any Seaman or Apprentice, shall be recoverable in any Court or pleadable by way of set-off by any keeper of a tavern, or house of public entertainment or lodging-house. *Ibid*, s. 7.

Amount recoverable from seamen by lodging-house keepers limited.

one dollar

8. The wearing apparel of any Seaman or Apprentice shall not be kept by any keeper of a tavern, house of public entertainment or lodging-house, in pledge for any debt or expenses incurred to any greater amount than ~~five shillings~~, and on the payment or tender of such sum or of any less sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such Seaman or Apprentice. *Ibid*, s. 8.

Wearing apparel of seamen not liable for lodging &c., beyond ~~five shillings~~.

one dollar

one dollar

9. All penalties imposed by this chapter may be recovered, with costs, before any Justice of the Peace, upon the oath of any one credible witness other than the informer, and shall be paid over, one moiety to the Receiver General of the Province, and the other half to the informer ; and such Justice shall also award and order the imprisonment (if any) to which the offender is liable for the offence whereby the penalty is incurred. *Ibid*, s. 9.

Recovery and application of penalties.

Act

C A P . X L I V .

An Act respecting the Navigation of certain Canadian Waters.

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

All steam-boats to carry lights.

1. All Steamboats, while navigating the waters of Upper Canada, during the night, shall be provided with Lights, to be exhibited and affixed as follows :

When under way, a white light on a flag staff aft, a bright white light on the foremast head, a green light on the starboard bow, a red light on the port bow, to be fitted with inboard screens ;

When at anchor, a common bright light, at the foremast head ;

As illustrated and explained in the Schedule A. (Omitted for the present : See cap. 44 of Consol. Stat. of U. C.

Schooners and other sailing vessels to carry lights.

2. Schooners and other sailing Vessels navigating, during the night, shall be provided with lights, to be affixed and exhibited as follows :

When sailing before the wind, a pale light,
 When sailing on the starboard tack, a red light,
 When sailing on the larboard tack, a green light, } On the Pawl Bit or Knight head.

When at anchor, a pale light in the foremast rigging. 14, 15 V. c. 126, s. 1.

How sailing vessels and steamers shall pass one another.

3. Every Sailing Vessel running before the wind, or with the wind free, and making a Steamer's light dead a-head, shall pass on the starboard side, but if to avoid jibing her mainsail, or for any other good reason, they shall wish to pass on the larboard side, then she shall shew her green light, indicating that she is on the larboard tack, when the Steamer shall pass under the Sailing Vessel's stern ;

How sailing vessels shall pass one another.

In case of two Sailing Vessels approaching one another on opposite tacks, the Vessel on the starboard tack shall keep the wind, and the one on the larboard tack shall keep away, always shifting the light, on going about at night ;

Distress.

A Vessel in distress shall shew both the red and green lights. 14, 15 V. c. 126, s. 1.

For

For the purposes of this chapter, the night shall be held to extend from one hour after sun-set to one hour before sun-rise. **Night defined.**
U. C. 7 V. c, 22.

4. Every Steamboat, Schooner or Vessel as aforesaid, shall be provided with a Fog Horn or a Bell of a weight not less than twenty pounds, which the Master or person commanding such Steamboat, Schooner or Vessel shall cause to be sounded or rung at regular intervals of or not less than five minutes at a time, with an intermission of two minutes, during the whole time that any such Steamboat, Schooner or other Vessel is in a fog. 14, 15 V. c. 126, s. 2. **Steamboat, &c., to have fog horn or bell, &c., and to sound them when in a fog.**

5. All Vessels shall take the starboard or right hand side of the channel in proceeding up or down any navigable water ; and when two Sailing Vessels are working to windward on opposite tacks, and there is danger of collision if both continue their course, the Vessel on the starboard tack shall keep her wind, and the Vessel on the larboard tack shall bear up and keep away. U. C. 7 W. 4, c. 22, s. 4. **Which side of the river vessels shall take, &c., when there is danger of collision.**

6. Whenever any Vessel or raft is going in the same direction with another which is a-head, the Vessel or raft first mentioned shall not be so navigated as to come within twenty yards of the other, nor shall such other be so navigated as to come within twenty yards of that first mentioned. U. C. 7 W. 4, c. 22, s. 5. **Whenever ; vessel, &c., are going in the same direction, not to come within 20 yards of each other.**

7. The Master or person in charge of any Steamboat, Sailing Vessel or raft, offending against any of the provisions of this chapter, shall incur a penalty of five pounds, to be recovered on the evidence of one credible witness before any two Justices of the Peace ; and in default of payment of such penalty, such Justices may commit the offender to Gaol for any period not exceeding thirty days. U. C. 7 W. 4, c. 22, s. 5. * **Penalty for contravention.**

8. If any damage to person or property is sustained in consequence of the non-observance of any of the provisions of this chapter, the same shall, in the absence of proof to the contrary, be held to have been caused by the wilful default of the Master or person in charge of the Steamboat, Vessel or raft, by which such damage is done ; and the owner thereof in all civil proceedings, and Master or person in charge thereof in all proceedings, civil or criminal, shall be subject to the legal consequences of such default. 14, 15 V. c. 126, s. 11. See also sect. 44, of chapter 46, as to Rafts navigating any Water in this Province. **Liability of Master and owners contravening this chapter.**

* NOTE.—At present the foregoing sections apply only to U. C. But even if they continue so limited, they relate to a subject common to the whole Province, and to Vessels which pass continually from U. C. to L. C. and vice versa, and would seem to come properly here. It would seem desirable to extend them to the whole Province, amending them if necessary, in doing *visu regali* should be had to the British Act (Merchant Shipping), ss. 295, &c. And to the Imperial Regulations published lately in the Canada Gazette.

C A P . X L V .

An Act respecting the Inspection of Steamboats; and for the greater safety of Passengers by them.

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

APPOINTMENT OF INSPECTORS.

Governor to appoint Inspectors of vessels propelled by steam, and of the machinery thereof.

1. The Governor in Council shall from time to time appoint at Quebec, Montreal, Bytown, Kingston, Toronto, Hamilton and Niagara, and at such other places as he may find advisable, one or more skilled persons competent to inspect steamboats, and the machinery and boilers employed in the same, who shall not be interested in the manufacture of steam-engines, boilers, or other machinery belonging to steamboats, and whose duty it shall be to make such inspection when called on for that purpose and as hereinafter prescribed, and to give to the owner or master duplicate certificates of such inspection; and every such Inspector, before entering upon his duties as such, shall take and subscribe an oath, before any person duly authorized to administer an oath, well, faithfully and impartially to execute the duties assigned to him by this chapter. 14, 15 V. c. 126, s. 4.

1. INSPECTION OF THE HULL.

Inspector of hull to give certificate.

2. The Inspector who inspects the hull of any steamboat in the manner required by this chapter, shall, after a thorough examination of the same, give to the owner or master a certificate, in which shall be stated the age of such steamboat, when and where originally built, and the length of time she has been running; and he shall also state whether, in his opinion, such steamboat is sound, and in all respect seaworthy, and fit to be used for the transport of freight and passengers. 14, 15 V. c. 126, s. 5,—and 20 V. c, 34, s. 13.

2. INSPECTION OF BOILERS AND MACHINERY.

Inspector of machinery to give certificate.

3. The Inspector who inspects the boiler and machinery of any steamboat in the manner required by this chapter, shall, after a thorough examination of the same, make a certificate, in which he shall state his opinion, whether such boiler is sound and fit for use, its age, and the heaviest pressure of steam to which it may, in his opinion, be safely subjected during the period to which such inspection is to apply, as well when the vessel is stationary as when running, thereby establishing a maximum rate of pressure in each of those cases, and shall not deliver such certificate unless such steamboat be provided with such steam-gauge as is hereinafter required:

And

And duplicates of such certificate thereof shall be delivered to the owner or master of the steamboat, one of which the said master or owner shall deliver to the Collector of the port where such inspection has been made, and the other he shall cause to be posted up and kept in some conspicuous part of the steamboat, for the information of the public. 14, 15 V. c. 126, s. 6,— and 20 V. c. 34, s. 13.

4. The master or owner of every steamboat shall cause such inspection of the hull thereof to be made at least once in every calendar year, and such inspection of the boilers and machinery thereof at least once in every six calendar months, and shall deliver to the Collector of the port where such inspection is made, a certificate thereof: and for every neglect to cause such inspections or either of them to be made, and the certificate thereof to be so delivered to the proper Collector, such master or owner shall incur a penalty of one hundred pounds, and such steamboat shall be liable for and chargeable therewith. 14, 15 V. c. 126, s. 7.

How frequently the hull and machinery shall be inspected.

Penalty.

5. Any Inspector may, whenever he deems it necessary so to do, and some one of them, shall at least once in every year, subject the boiler of every Steamboat, to a test by hydrostatic pressure, the limit of which shall in no case exceed one hundred and fifty pounds to the square inch, and shall satisfy himself by examination and experimental trials, that such boiler is well made of good and suitable material; and the owner of the Steamboat shall provide the necessary pump and apparatus for such test, to be worked by the crew of the vessel:

Inspectors may examine boilers of any steamer when they see fit. And must do so once a year at least.

2. And no Inspector shall make or deliver to the owner or master of any Steamboat, any such certificate as is mentioned in the third section of this chapter, without having first subjected the boiler of such vessel to such test by hydrostatic pressure, unless by the certificate of the then last half yearly inspection of the same, it appears that the same was subjected to such test at such last half yearly inspection. 20 V. c. 34, s. 3.

Hydrostatic test to be applied once a year.

6. In subjecting boilers to the hydrostatic test aforesaid, the Inspectors shall assume one hundred pounds to the square inch as the maximum pressure allowable as a working power for a new boiler forty-two inches in diameter, made of the best refined iron, at least one quarter of an inch thick, in the best manner and of the quality herein required:—and shall rate the working power of all boilers, whether of greater or less diameter, according to this standard; and in all cases the test applied shall exceed the working power allowed, in the ratio of one hundred and fifty pounds to one hundred, using the water in such tests at a temperature not exceeding sixty degrees, Fahrenheit; but if any such Inspector is of opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure, he may, for reasons

Rules to be observed in testing boilers.

Standard of strength.

Provision for special cases.

to

No boiler made before 10th June, 1857, to be rated above the standard.

to be stated specifically in his certificate, fix the working pressure of such boiler at less than two thirds of the test pressure; and no boiler made after the tenth day of June, one thousand eight hundred and fifty-seven, shall be rated in its working pressure above the said standard :

Provision as to boilers made before that day.

2. And the same rules shall be observed in regard to boilers made before the said day, unless the proportion between such boilers and the cylinders, or some other cause, renders it manifest that its application would be unjust, in which case the Inspectors may depart from the said rules, if it can be done with safety ;

No safety valve to be loaded beyond the pressure allowed by certificate, &c.

3. But in no case shall the working pressure allowed exceed the porportion hereinbefore mentioned, as compared with the hydrostatic test ; and no valve under any circumstances shall at any time be so loaded or so managed in any way as to subject a boiler to a greater pressure than that allowed by the Inspector at the then last inspection thereof, and no boiler or pipe be approved which is made in whole or in part of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use or any other cause. 20 V. c. 34, s. 4.

3. INFORMATION TO BE GIVEN TO INSPECTORS.

Inspectors may ask all pertinent questions of the steamer's crew, &c.

7. Any Inspector may at all times, when inspecting, visiting or examining the hull or the boiler and machinery of any steamboat, ask of any or all of the owners, officers or engineers of such vessel, or other person on board thereof and in charge, or appearing to be in charge of the same or of the boiler or machinery thereof, such pertinent questions concerning the same, or concerning any accident that may have happened thereto, as he may think fit, and every such person shall fully and truly answer every such question so put to him to the best of his knowledge and ability ; and every person refusing to answer, or falsely answering any such question, or preventing any such inspection or obstructing any Inspector in the same, shall, by so acting, incur a penalty of ten pounds, which may be recovered before any Justice of the Peace. V. c. 34, s. 7.

Penalty for refusing to answer them.

Master, &c., to report accidents to boilers, &c.

8. The Master or Owner of every Steamboat, or of the person in charge thereof, shall, within forty-eight hours after the occurrence of any event whereby the same, or the boiler, or machinery thereof, or any part of the same is in any material degree injured, strained or weakened, report such occurrence to one of the said Inspectors ; and in case of omission to give such notice, the Owner of the Vessel shall forfeit to Her Majesty, fifty pounds for every day during which such omission continues. 20 V. c. 34, s. 10.

Penalty for neglect.

4. STEAM-GUAGES, AND PRECAUTIONS AGAINST EXPLOSION.

9. In a conspicuous and easily accessible place in every Steamboat there shall be a steam guage properly constructed and open to the view of all passengers and others on board such vessel, and shewing at all times the true pressure of the steam in the boiler thereof; and whenever such steamboat is stopped for any purpose, the master or person in charge of such steamboat shall open the safety valve, so as to keep the steam in the said boiler down to the pressure limited as aforesaid, under the penalty of fifty pounds for every contravention of this provision :

Steam guage, properly constructed, to be open to the view of all the passengers, at all times.

2. And if any master or engineer of any steamboat at any time allows the pressure of steam to which the boiler of such steamboat is subjected, to exceed that limited by the Inspector's certificate, or alters or conceals or otherwise deals with the said steam guage, so as to prevent the real pressure of steam from being seen and ascertained by any passenger, he shall thereby incur a like penalty of fifty pounds for every such offence. 14, 15 V. c. 126, s. 8.

Safety valve to be raised when the vessel is stopped.

Penalty.

10. The steam-guage required by this chapter to be open to the view of all passengers and others on board any steamboat, shall be put in such places and positions, and be of such construction, as the Inspector inspecting, visiting or examining such steamboat, shall from time to time direct. 20 V. c. 34, s. 9.

Steam gauges to be constructed and placed as inspector sees fit.

11. Every Inspector, when inspecting, visiting or examining the boiler and machinery of any steamboat, shall satisfy himself that the safety-valves attached thereto are of suitable dimensions, sufficient in number, well managed and in good working order, and only loaded so as to open at or below the certified working pressure; and he may, if he thinks proper, order and cause one of such safety-valves, of sufficient dimensions to discharge all the steam the boiler can generate, and of such construction as he shall approve, to be locked up and taken wholly away from the control of all persons engaged in navigating such vessel, and placed under his own sole control. 20 V. c. 34, s. 8.

Inspector to see that safety valves are sufficient.

May lock up one of sufficient size if he thinks fit.

5. BOATS TO BE CARRIED BY STEAMERS.

12. The owner and master of every steamboat engaged in the transportation of freight and passengers on the Lakes Ontario, Erie, Huron, Simcoe and Superior, and on the River St. Lawrence or Ottawa, shall provide and carry with the steamboat, upon each and every voyage, two long-boats or yawls, each sufficient to carry at least twenty persons, if the burthen of such steamboat do not exceed two hundred tons, and not less than three long-boats or yawls, of the same or larger dimensions, if the tonnage of such steamboat exceeds two hundred tons; and for every failure in contravention of this section, the said master or owner shall incur a penalty of fifty pounds :

Steamers to carry boats of certain dimensions.

But

But this section shall not apply to ferry-boats, or to schooners or vessels, of whatever tonnage, engaged in the Coasting Trade within and below the Port of Quebec. 14, 15 V. c. 126, s. 9.

Description of boats to be carried by steamers. **13.** At least one of the boats provided for and carried with every steamboat, in pursuance of the next preceding section, shall be a life-boat, made of metal, fire-proof, and in all respects a good, substantial, safe sea-boat, capable of sustaining, inside and outside, fifty persons, with life-lines attached to the gun-wale at suitable distances; and each of such boats shall be well furnished with oars and other necessary apparatus, and shall be good, substantial and safe, and in good condition at all times for service. 16 V. c. 167, s. 1.

6. PRECAUTIONS AGAINST FIRE.

Steamers to carry fire buckets and life-preservers. **14.** The owner and master of every such steamboat as aforesaid, shall provide and shall upon every voyage carry with the said steamboat, at least twenty-five fire-buckets and five axes, and a good life-preserver made of suitable material, or a float well adapted to the purpose, for each passenger, which life-preservers and floats shall always be kept in convenient and accessible places in such steamboat, and in readiness for the use of the passengers. 16 V. c. 167, s. 2.

Inspectors to see that proper provision is made against fire. **15.** Suitable and safe provisions shall be made throughout to guard against danger from fire; and no combustible material liable to take fire from heated iron, or any other heat generated on board of such vessels in and about the boilers, pipes or machinery, shall be placed at less than eighteen inches distant from such heated metal or other substance likely to cause ignition, unless a column of air or water intervenes between such heated surface and any wood or other combustible material so exposed, sufficient at all times and under all circumstances to prevent ignition; and further, when wood is so exposed to ignition, it shall, as an additional preventive, be shielded by some incombustible material, in such manner as to allow the air to circulate freely between such material and the wood:

Provision for special cases. Provided, however, that when the structure of such vessels is such, or the arrangement of the boilers or machinery is such, that the requirements aforesaid cannot, without serious inconvenience or sacrifice, be complied with, Inspectors may allow deviations from the said requirements, if, in their judgment, it can be done with safety. 20 V. c. 34, s. 1.

Steamers carrying passengers to have forcing pumps for extinguishing fire. **16.** Every steam vessel carrying passengers shall have at least three double-acting forcing pumps, with chamber at least four inches in diameter, two to be worked by hand and one by steam, if steam can be employed, otherwise all three by hand, and one whereof shall be placed near the stern, one near the stem, and one amidships, each having a suitable well-fitted hose,

hose, of at least two-thirds the length of the vessel, kept at all times in perfect order and ready for immediate use ; each of the said pumps shall also be supplied with water by a pipe connected therewith, and passing through the side of the vessel, so low as to be at all times in the water when the vessel is afloat :

Provided, that in vessels not exceeding two hundred tons measurement, engine-room included, two of such pumps (one of which may be the steam-pump) may be dispensed with, and in vessels of over two hundred tons, but not exceeding five hundred tons measurement, engine-room included, one of such hand-pumps may be dispensed with, but in these cases the hose shall be of such length as to reach easily to every part of the vessel. 20 V. c. 34, s. 2.

Proviso : as to vessels under a certain tonnage.

17. Every steamboat carrying passengers on the main or lower deck, shall be provided with sufficient means convenient to such passengers for their escape to the upper deck, in case of fire or other accident endangering life. 16 V. c. 167, s. 3.

To have means of escaping to upper deck.

7. MISCELLANEOUS PROVISIONS,—DUTY,—PENALTIES, &C.— INTERPRETATION.

18. Every Inspector appointed to act at any particular place or places, may at any time visit, at any such place, any Steamboat touching there, and inspect and examine the same, and if he considers such vessel unsafe or unfit to carry Passengers, he shall report thereon, to the Governor in Council, who may by Order in Council, direct that such vessel shall not be used or run until permitted so to do by the Inspector who shall have made such report, or by order of the Governor in Council ; And any such vessel run or used in contravention of any such Order in Council, shall be liable to forfeiture and to seizure by the Collector of Customs at any port, and to sale, in the same way as goods liable to forfeiture for non-payment of duties. 20 V. c. 34, s. 6.

Inspector may examine any steamer at the place for which he is appointed, and report it unsafe, if he finds it so, &c.

19. The Governor in Council may, by an Order or Orders in Council, from time to time, prescribe and regulate the number of Cabin or Steerage or other passengers that may be carried by any Steamboat or class of Steamboats in this Province, either in proportion to the dimensions or tonnage thereof, or both, or otherwise howsoever : But no such Order in Council shall take effect until after it has been published at least twice, at an interval of at least six days between each publication, in the *Canada Gazette*. 16 V. c. 167, s. 5.

Governor in Council may limit the number of passengers to be carried by any steamer.
Proviso.

20. The Owner or Master of every Steamboat in this Province, shall pay yearly and every year, a rate or duty fixed by the Governor in Council and not exceeding six pence currency for every ton which such Steamboat measures, and an inspection fee

Duty and fee payable to Collector of Customs on every steamer fee

instead of fees to Inspector. fee of one pound five shillings for every Propeller, Freight or Tug Steamer, and every Ferry Steamer not exceeding one hundred tons burden, and of two pounds for every ferry or passenger Steamboat over one hundred tons burden for each inspection ; And the amount of such rate or duty and inspection fee or fees, shall in each case be paid to and received by the Collector of Customs at some one of the Ports in this Province, who shall account for and pay over the same to the Receiver General, at such times and in such manner as the Governor in Council may from time to time direct ; and such sums so from time to time collected and paid over shall form a special fund for the purposes of this Act, to be called " The Steamboat Inspection Fund." 20 V. c. 34, s. 13.

Officers to see that the said duty and fees are paid.

21. Every Collector of Customs shall from time to time demand of the Owner or Master of every Steamboat which he may have reason to think has not been inspected for more than six months, or in respect of which he may have reason to think the rate or duty aforesaid, is due and unpaid, the exhibition of the receipt and certificate in that behalf, appertaining to such Steamboat ; and if receipts and certificates as aforesaid, to his satisfaction, are not produced within a reasonable time, then such Collector shall seize and detain such Steamboat until the same are procured and exhibited, and a penalty incurred and lawfully imposed in respect of such Steamboat under the provisions of this Chapter, have been paid in full ; and in default of payment such Collector shall sell such Steamboat, for the payment of such rate or duty or penalties, in the usual manner. 20 V. c. 34, s. 14.

Forfeiture of vessel for non-payment.

No certificate of inspection until the said duty and fees are paid, and the requirements of the law have been complied with.

Inspectors to report to Collector any omission to pay the same ; or any refusal to submit to inspection.

Inspector to be carried free while inspecting steamboats.

22. No Inspector shall make or deliver a certificate respecting any Steamboat under this chapter, unless the receipt of a Collector of Customs for the rate or duty payable in respect of such Vessel for the then current year has been produced and shewn to him, nor unless he be satisfied by carefully examination that all the conditions and requirements of this Chapter have been fulfilled and complied with by and in respect of such Steamboat, and every Inspector shall report to some one of the Collectors of Customs, any case of omission to pay such rate or duty or of omission to apply for such inspection as aforesaid, for more than six months from the date of the then last inspection, or of refusal to submit to inspection at any time, which may at any time or in any way come to his knowledge ; And any Inspector shall be carried free of expense on every Vessel which he shall desire to inspect while under way, and during such period as may be necessary for such inspection and for his return to the Port at which he may have embarked on such Vessel for such purpose, or for his disembarkation at any Port at which such Vessel touches on her voyage. 20 V. c. 34, s. 15.

Appeal from Inspector's

23. Any person who feels himself aggrieved by any order or act of an Inspector, may, within two weeks thereafter, appeal therefrom

therefrom to the Governor in Council, who may confirm, modify or disallow such act or order. 20 V. c. 34, s. 11.

24. If any damage to any person or property is sustained in consequence of the non-observance of any of the provisions of this chapter, the same shall be deemed, in the absence of proof to the contrary, to have been caused by the wilful default of the Master or other person having charge of the Steamboat in respect of which such non-observance has occurred, and the Owner thereof in all civil proceedings, and the Master or other person having charge thereof in all proceedings, whether civil or criminal, shall be subject to the legal consequences of such default. 14, 15 V. c. 126, s. 11.

Liability of masters and owners contravening this chapter.

25. For every contravention in respect of any Steamboat in this Province, on any one voyage or trip thereof, of any provision in this chapter or in any Order in Council made under it, the Owner or Master thereof shall incur a penalty of Fifty Pounds. 16 V. c. 167, s. 6.

Penalties for contravening this chapter.

26. All penalties incurred under this chapter may be recovered in the name of Her Majesty, by Her Majesty's Attorney General in any Court having civil jurisdiction to the amount thereof, and all penalties recovered under this Chapter, shall be paid to the Receiver General, and shall be by him placed to the credit and form part of "The Steamboat Inspection Fund." 20 V. c. 34, s. 16.

Recovery and application of penalties.

27. In this chapter, the word "Steamboat" means any vessel used in navigation, propelled wholly or in part by Steam; and the word "Owner" includes the Lessee or Charterer of any such vessel; and the word "Boiler" is to be construed as "Boiler or Boilers," in the case of a Steamboat having more than one. 20 V. c. 34, s. 12.

Interpretation.

C A P . X L V I .

An Act respecting the Culling and Measuring of Lumber.

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

APPOINTMENT OF SUPERVISOR OF CULLERS.

Supervisor of Cullers to be appointed.

1. The Governor may appoint a fit person, well skilled and practically acquainted with the Lumber Trade of this Province, to be the Supervisor of Cullers, who shall supervise and control the culling, measuring and examination of every description of lumber in the manner hereafter prescribed. 8 V. c. 49, s. 2.

Supervisor to give security.

four thousand dollars

2. The Supervisor shall himself, with two responsible sureties, enter into bonds to Her Majesty, in the penal sum of ~~one thousand pounds currency~~ *four thousand dollars*, each, for the faithful discharge of his duty; and such bonds shall enure to the benefit of all parties damnified by the misfeasance, malfeasance or non-feasance of the Supervisor, and any parties so damnified may recover from the Supervisor and his sureties, upon such bond, the amount to which they have been so damnified. 8 V. c. 49, s. 2.

Supervisor shall take an oath of office.

3. The Supervisor shall, before entering upon the duties of his office, take and subscribe the following oath before any of Her Majesty's Justices of the Queen's Bench or Superior Court in the District of Quebec, that is to say :

The oath.

" I, A. B., solemnly swear that I will faithfully, truly and impartially, to the best of my skill and understanding, execute the office and perform the duty of Supervisor of Cullers, according to the true intent and meaning of the *Act respecting the culling and measuring of lumber*,—that I will not, either directly or indirectly, personally, or by means of any other person or persons on my behalf, receive any fee, reward or gratuity whatever, by reason of any function of my office as Supervisor except such as are allowed to me by the said Act; and that I will not, directly or indirectly, be a dealer in or interested in the buying or selling of any article of lumber, either on my own account or on account of any other person or persons whomsoever; and that I will act without partiality, favor or affection, and to the best of my knowledge. So help me God." 8 V. c. 49, s. 2.

Oath to be filed of record.

4. The said oath and bond shall be filed and kept among the records of the office of the Registrar of this Province. 8 V. c. 49, s. 2.

5. Any Deputy appointed by the Supervisor shall take and subscribe the said oath, so far as applicable to him, before one of Her Majesty's Justices of the Peace, and the same shall be filed in the office of the Supervisor, and such Deputy shall himself with two responsible sureties, enter into bond to Her Majesty, in the penal sum of ~~two hundred pounds~~ each, for the faithful discharge of his duty, which bond shall enure to the benefit of all parties who may be damnified by misfeasance, malfeasance or nonfeasance of such Deputy, and parties so damnified may recover from the said Deputy and his sureties, upon such bond, to the amount of which they may have been so damnified. 8 V. c. 49, s. 2.

Any Deputy appointed by him shall take the same oath.

eight hundred dollars

6. In all matters not affecting the actual culling and measurement of Timber, Lumber or other wood, the Supervisor of Cullers shall be deemed to be an Officer of the Crown Lands Department, and shall render, through the Commissioner of Crown Lands, the Accounts and Statements required by the ~~thirty-third~~ section of this Chapter, to be rendered to the Governor, and all such other accounts and statements as the Commissioner of Crown Lands shall require from him. 18 V. c. 93, s. 1.

Supervisor shall be deemed an Officer of the Crown Lands Department in certain cases.

act

7. All appointments in the Supervisor's Office shall be made by the Governor in Council. 18 V. c. 93, s. 2.

Governor in Council to make all appointments.

BOARDS OF EXAMINERS OF CULLERS.

8. The Council of the Quebec Board of Trade, when required by the Supervisor so to do, shall elect four Merchants, practically acquainted with the Lumber Trade, and the Supervisor shall, by an instrument under his hand and seal, appoint four licensed Cullers, and the said four Merchants and four Cullers shall constitute a Board of Examiners, of which Board the Supervisor shall *ex officio* be a member and Chairman; and as often as vacancies occur in the said Board, by death, change of residence, or otherwise, such vacancies shall be filled by election in the case of the Merchants, and by new appointment in the case of the Cullers, forming the said Board. 8 V. c. 49, s. 3.

The Supervisor, with four Merchants and four licensed Cullers selected by him, shall be a Board of Examiners.

9. The Board shall meet at the office of the Supervisor, or elsewhere, on the first Monday of May and August in each year, or upon any other day when notified by the Supervisor so to do, and four of the number of the Board shall constitute a *quorum* for the transaction of business, and the decision of any majority of the members present at any such meeting shall be held to be the decision of the Board. 8. V. c. 49, s. 3.

Board to meet at the office of Supervisor, or elsewhere—four to constitute a quorum.

10. Each member of the Board, before acting as such, shall take the following oath, (to be administered by the Supervisor.):

Members to be sworn.

" I,

The oath.

"I, A. B., solemnly swear that I will, to the best of my judgment and understanding, faithfully test the skill and qualification of any applicant who may come before me to be examined as to his fitness to be licensed as a Culler, and that I will act according to the true intent and meaning of the law, and without partiality, favour or affection: So help me God." 8 V. c. 49, s. 3.

APPOINTMENT OF CULLERS.

Who may be appointed Cullers.

Act

11. No person shall be recommended by the Board of Examiners to be licensed as a Culler, unless he is in every way capable as to skill, experience, age, character and knowledge of this Chapter, and practically acquainted with each department of culling and measuring for which he applies to be licensed. 8 V. c. 49, s. 4.

Cullers to be divided into four different departments.

12. The duties of culling and measuring shall be divided into four different departments, that is to say: one department for the culling and measurement of square timber,—one for the culling and measuring of staves,—one for the culling and measuring of masts, spars, bowsprits, oars and handspikes,—and one for the culling and measurement of deals, boards, planks, and lathwood. 8 V. c. 49, s. 5.

Cullers may be licensed by the Governor. Proviso: as to their qualification.

13. The Governor may grant Licenses (to be issued by the Supervisor) to all duly qualified applicants, as Cullers, for one or more of the departments as aforesaid: Provided each such applicant produces a certificate of his fitness and qualification from the Board of Examiners, which shall be filed in the Supervisor's office. 8 V. c. 49, s. 6.

They shall give security.

four hundred dollars

14. Before receiving a license, such applicant shall himself, with two sufficient sureties, enter into a bond to Her Majesty, in the penal sum of ~~one hundred pounds~~, *currency*, each, for the faithful discharge of his duties; and such bond shall enure to the benefit of all parties who may be damaged by the misfeasance, malfeasance, or nonfeasance of such Culler, and all parties so damaged may recover from the said Culler and his sureties, upon such bond, to the amount to which they have been so damaged, and such bond shall be taken before the Supervisor. 8 V. c. 49, s. 6.

New sureties required, in case of removal.

Act

15. In the event of the removal from this Province, or the declared or known insufficiency, or the death of any of the sureties of the Supervisor, or of any Culler, it shall be the duty of such Supervisor or Culler, immediately to procure sufficient sureties, and to enter into a new bond as required by this Chapter, and in default of his so doing, his appointment or license shall become void. 8 V. c. 49, s. 28.

16. The Culler shall also, before one of the Justices of some Superior Court of Civil Jurisdiction, take and subscribe the following oath : Cullers shall take an oath.



"I, A. B., solemnly swear, that I will faithfully, truly, and impartially, to the best of my knowledge and understanding, execute the office and perform the duty of a Culler of (*here insert the description of the lumber of which he is to be a Culler,*) according to the true intent and meaning of the Law, concerning the culling and measuring of Lumber, and that I will give a true account and certificate of the number, quality and dimensions or measurement of the lumber which may be submitted to inspection, according to the best of my knowledge ; and that I will not, directly or indirectly, be a dealer in or interested in the buying or selling of any article of lumber, either on my own account or on account of any other person or persons whomsoever ; and that I will not at any time purloin, or willfully change or omit, any article of lumber submitted to me for the purpose of being measured, counted or culled. So help me God." The oath.

Which oath every such Culler shall cause to be filed in the office of the Supervisor; and when any applicant to be a Culler has complied with the requirements of this ~~chapter~~, the Supervisor shall report and certify the same to the Governor or the Provincial Secretary, and shall procure for such applicant his license, without any fee to the Supervisor, and subject only to the payment of such fees of office as are usual and reasonable for such documents. 8 V. c. 49, s. 6. Oath to be filed. Act

SUPERVISOR TO DIRECT THE CULLING AND MEASURING BY
LICENSED CULLERS.

17. The Supervisor shall open an office in a central and convenient place at the Port of Quebec, for the transaction of his official business, which office shall be kept open by him or his deputy, on all lawful days, from six o'clock in the forenoon to six o'clock in the afternoon, during the open season of navigation, and at other times during ordinary office hours ; and the Supervisor shall employ during each season such number of Cullers as may be necessary to do the work required in the different departments of culling and measuring ; Supervisor's Office, where and how to be kept.

2. The duty of such Cullers in each department shall be performed by them in rotation ; and the Supervisor may dictate the number of men required to be employed under the direction of the Cullers for the expeditious culling of timber, masts, spars, deals, staves, or other description of lumber, so as to avoid unnecessary delay, and if such assistance be refused, the Supervisor or Culler may employ the number required at the expense of the parties concerned. 8 V. c. 49, s. 7. Authority of the Supervisor.

Culling and measuring to be performed in rotation, &c.

18. The Supervisor shall record the several requisitions for measuring or culling each description of lumber; and the culling or measuring thereof shall be performed in the order of such requisitions, and the Supervisor shall, when required, within twelve business hours after such requisition, send a Culler to do the measuring, culling or counting so required, in any place within the Harbour of Quebec, provided the Supervisor has at the time Cullers unemployed or obtainable, and the Supervisor may recall every such Culler at any time if he deems it necessary. 8 V. c. 49, s. 11.

How specifications of lumber culled and measured shall be made.

19. Every Culler shall check and examine the entry of his measurements and counting on the books of the Supervisor and sign such entry and calculations on the said books; a copied specification thereof having been checked and examined in the office of the Supervisor, and being signed by him or his deputy, shall be furnished to the owner of the Lumber, or person entitled to the same, as soon as practicable after the measuring, culling, or counting of any lumber is completed, if called for. 8 V. c. 49, s. 10.

Supervisor of Cullers may endorse on specification of measurement, the amount of Crown dues thereon, and may withhold it till such dues are paid, &c.

20. The Supervisor of Cullers may endorse upon the specification of measurement of any Lumber or the amount of Crown dues accrued thereon; and may withhold such specification from the parties interested therein, until such Crown dues are paid or secured to the satisfaction of the Crown Timber Agent appointed to collect the same; and the Supervisor may further withhold such specifications until the Crown Timber Agent has received satisfactory evidence of the quantities of Timber, respectively so exempt from and subject to such Crown dues. 18 V. c. 93, s. 3.

MODE OF CULLING AND MEASURING.

Holders of measuring tapes, &c., shall be apprentices.

21. The holders of measuring tapes and scribes of timber shall in all cases, when practicable, be apprentices or candidates for becoming Cullers, for whose acts, in the performance of their duties, the Cullers shall be responsible. 8 V. c. 49, s. 8.

Square timber to be measured according to three modes.

22. Square timber shall be measured only in some one of the three following modes, that is to say:

First.—Measured off, in the raft or otherwise, giving the full cubic contents without any allowance or deduction.

Secondly.—Measured in shipping order—which shall mean sound, fairly made timber,—gum seams closed at the but and sound knots not to be considered unsoundness,—lengths under the merchantable standard hereinafter mentioned and not less than twelve feet long to be received, if in the opinion of the Culler the same be fit for shipment.

Thirdly.—

Thirdly.—Culled and measured in a merchantable state, in accordance with the rules, standards and limitations hereinafter described. 8 V. c. 49, s. 9.

23. In measuring timber, the Culler employed for that purpose, shall measure not only the girth of each piece of Timber, but shall also measure, personally, with the aid of one competent assistant, the length of each piece of Timber, in all cases where such measurement shall be practicable with the aid of only one assistant; and in the event of any case arising in which, in the opinion of the Supervisor of Cullers or his Deputy, such measurement cannot be effected with the aid of one assistant only, then such Culler may employ an additional competent assistant for that purpose, who, as well as the assistant first above mentioned, shall be approved of by the Supervisor of Cullers or his Deputy. 16 V. c. 168, s. 1.

Length of timber to be measured by Cullers as well as girth.

24. Every Culler shall provide himself with a measuring rod and tape, which shall in all cases be English measure, and tested and compared by a standard kept in the office of the Supervisor, (such rod having a hook at the end five-eighths of an inch long,) and also with a scribing knife with which he shall mark in legible characters the length, breadth, and thickness of all square timber measured or culled by him, and the mark, initials or number of the party if required; and every Culler shall provide himself with a proper stamp with the initials of his name in legible characters, and with the following capital letters, in addition:

Culler to provide himself with measuring rod, tape, &c.

How lumber shall be marked.

- M, which shall denote what is merchantable;
- U, which shall denote what is sound and of merchantable quality, but under merchantable size;
- S, which shall denote what is of second quality;
- T, which shall denote what is of third quality;
- R, which shall denote what is rejected and unmerchantable.

Which marks shall be indented or stamped on the end of each article of lumber culled in terms of merchantable standard hereinafter prescribed, except West India and Barrel Staves, Boards, Lathwood and Handspikes. 8 V. c. 49, s. 12.

25. A copy of every agreement as to the adoption of any of the modes of measurement or culling mentioned in this Chapter, signed by the seller and buyer, shall be lodged in the office of the Supervisor, at the same time that a requisition is made to him for a Culler to measure or cull any lumber, for the guidance of the Supervisor and Culler, in the performance of their duty, and such requisition shall state the river and section of the Province wherefrom such lumber is produced:

Copy of agreement as to mode of measurement shall be lodged in the Supervisor's Office.

act

21
 Proviso.

Provided that it shall be competent for the owner of any lumber, or his agent, to cause it to be measured, culled or counted before any sale, in which case the specification of such lumber shall set forth the mode in which the measurement, culling or counting has been performed. 8 V. c. 49, s. 13.

QUALITIES OF LUMBER.

Descriptions and classes of lumber.

26. In all cases the Supervisor and Cullers respectively, shall be governed by the following descriptions, rules, standards and limitations, in ascertaining and certifying the merchantable size and quality of lumber submitted to their culling:

Square White Oak timber.

Square White Oak Timber, First quality, shall be free from 10
 rot, rotten knots, (affecting the surrounding wood,) open rings and grub or large worm holes, but small worm holes and shakes shall be allowed according to the judgment of the Culler; *Second quality* shall be oak not coming within the definition of first quality, and which, in the judgment of the Culler, is not 15
 culls;

Rock Elm.

Square Hard Grey or Rock Elm shall be free from rots, open 20
 rings and rotten knots, (affecting the surrounding wood,) but shakes and slivers shall be allowed according to the judgment of the Culler;

White or Yellow Pine timber.

Square White or Yellow Pine Timber shall be free from rot, 25
 rotten knots, (affecting the surrounding wood,) worm holes, open shakes and open rings, but sound knots shall be allowed according to the judgment of the Culler;

Square Red Pine timber.

Square Red Pine Timber shall be free from rots, rotten knots, 25
 (affecting the surrounding wood,) worm holes, shakes and splits, but sound knots shall be allowed according to the judgment of the Culler;

Square Ash, Basswood and Butternut.

Square Ash, Basswood and Butternut shall be of the same 30
 quality as white or yellow pine square timber;

Square Birch.

Square Birch shall be free from rot, rotten knots, splits and 30
 shakes, and shall be allowed two inches wane;

Masts, Bowsprits and Red Pine Spars.

Masts, Bowsprits, and Red Pine Spars, shall be sound, free 35
 from bad knots, rents and shakes, and the heart shall be visible in spots at or near the partners;

Hickory Handspikes.

Hickory Handspikes shall be six feet long, and three and a 40
 half inches square at the smaller end;

Ash Oars.

Ash Oars shall be three inches square on the loin, and five 40
 inches broad on the blade, the blade shall be one third of the length of the oar, and such oars shall be cleft straight on all sides, and free from large knots, splits and shakes; *Lathwood*

Lathwood shall be cut in lengths of from three to six feet, and measured by the cord of eight feet in length by four feet in height; the same, to be merchantable, shall be free from rot, split freely, and each billet may contain to the extent of three or four open case knots, provided they run in line or nearly so, and it shall not have more than one twist; Lathwood.

Pine or Fir Boards shall not be less than ten feet in length, not less than one inch in thickness, nor less than seven inches in breadth, equally broad from end to end, edged with a saw, or neatly trimmed by a straight line, and shall be free from rot, bad knots, rents and shakes, and of equal thickness on both edges from end to end, but the colour alone of any board shall not be a sufficient cause for its rejection, if it is in other respects sound and merchantable, and of the dimensions required by this Act; Pine or Fir Boards.

White or Yellow Pine Deals, to be merchantable, shall be free from rot, rotten knots, grub-worm holes, open case knots, shakes and splits, (a slight sun crack excepted,) and sound knots and hard black knots to be allowed as follows: if not exceeding three in number, and not exceeding upon the average one inch and a quarter diameter—if exceeding three and not exceeding six in number, and upon the average not exceeding three quarters of an inch in diameter; this proportion of knots to be allowed for a deal eleven inches in width and twelve feet in length, and deals of greater or less dimensions to be allowed for in proportion, according to the judgment of the Culler; wane equal to half an inch on one edge if running the whole length of the deal to be allowed, and if not exceeding half the length of such deal, three quarters of an inch to be allowed; they shall be free from black or dead sap, (with a slight exception, at the discretion of the Culler;); White or Yellow Pine Deals.

Red Pine Deals, to be merchantable, shall be free from rot, rotten knots, grub-worm holes, open case knots and splits, several small sound knots to be allowed, according to the judgment of the Culler; heart shake to be allowed, if it does not run far into the deal or form a split through at the ends, they shall be free (or nearly so) from black or dead sap, but sound sap on the corners or on a portion of one face of a deal to be allowed, according to the judgment of the Culler; Red Pine Deals.

Spruce Deals, to be merchantable, shall be free from rot, rotten knots, grub-worm holes, open case knots, splits and shakes, (a heart shake not exceeding one-fourth of an inch to half an inch in depth excepted,) several small sound knots and hard black knots to be allowed, according to the judgment of the Culler, and in the exercise of such judgment he shall keep in view the peculiar nature of the wood, and govern his judgment accordingly; wane equal to half an inch on one edge, if running the whole length of the deal, to be allowed, and if not exceeding Spruce Deals.

may/

exceeding one quarter the length of such deal, three quarters of an inch to be allowed ;

White or
Yellow Pine
second quality
Deals.

White or Yellow Pine second quality Deals shall be free from rot, rotten knots and splits, with slight exceptions, at the discretion of the Culler, and sound knots and hard black knots to be allowed as follows : if not exceeding six in number and not exceeding upon the average one inch and a half diameter ;—if exceeding six and not exceeding twelve in number, and not exceeding upon the average one inch and a quarter in diameter, (small knots under half an inch diameter not to be counted or considered,) this proportion of knots to be allowed for a deal eleven inches in width and twelve feet in length, and deals of greater or lesser dimensions to be allowed for in proportion, according to the judgment of the Culler ;—heart shakes and sun cracks not exceeding three-fourths of an inch to one inch in depth to be allowed, as also worm-holes at the judgment of the Culler ;—wane of half an inch to one inch to be allowed according to the quality of the deal in other respects, at the judgment of the Culler. Deals rejected as not coming within the standard of merchantable or second quality shall be classed as culls, except that the Culler may if requested by buyer and seller, select and classify as third quality the best of the deals so rejected ;

Spruce and
Red Pine
second quality
Deals.

Spruce and Red Pine second quality Deals shall be coming within the definition of merchantable, and which, in the opinion and judgment of the Culler, are not culls, and shall be classed as second quality ; and the Culler, if required by seller and buyer, may select and classify as third quality the best of the deals unfit to be seconds ;

Quebec stand-
ard hundred
of Deals.

The Quebec standard hundred of deals shall be one hundred pieces twelve feet long, eleven inches broad, and two and a half inches thick ; and deals of all other dimensions shall be computed according to the said standard ; deals of all qualities shall not be less than eight feet long, seven inches broad, and two and a half inches thick ; deal ends shall not be less than six feet long, and shall be computed according to the Quebec standard ;

Merchant-
able Deals.

All merchantable deals must be well sawn and squared at the end with a saw, and the colour alone shall be no objection to their being merchantable ; all deals when culled shall in all cases be stamped with the initials of the Culler, and the capital letter denoting their quality of such ;

Proviso : as to
Spruce Deals.

Provided always, that *spruce deals*, if not sawn at the ends prior to or at the time of culling, shall be marked with the capital letter denoting their respective qualities with red chalk, in large bold letters ; and to prevent mistakes in piling, all other deals shall be marked with bold strokes in red chalk as follows :

How other
Deals shall be
marked.

Merchantable

Merchantable shall be marked, I ;

Second quality shall be marked, II ;

Third quality (if made) shall be marked, III ;

Rejected or Culls shall be marked, X ;

5 *Standard or Measurement Staves* shall be of the dimensions set forth in the words and figures following :

	5½	feet long,	5	inches	broad,	and	from	1	to	3	inches	thick ;
	4½	do	4½	do								
	3½	do	4	do								
10	2½	do	5	do								

Head-Staves, five and a half feet long, and four and a half inches broad, to be received as if of merchantable dimensions ; Head-Staves. shall

15 *And the standard mille* shall be twelve hundred pieces of five and a half feet long, five inches broad, and one and a half inches thick ; and standard or measurement staves of other dimensions shall be reduced to the said standard by the tables of calculation now used ; Standard Mille.

20 *West India or Puncheon Staves* shall be three and a half feet long, four inches broad, and three-fourths of an inch thick ; all staves shall be straight-grained timber, properly split, with straight edges, free from the grub or large worm-holes, knots, veins, shakes and splinters, and small worm holes not exceeding three in number, to be allowed according to the judgment of the Culler, provided there are no veins running from or connected therewith, and the Culler shall measure the length, breadth, and thickness of standard staves at the shortest, narrowest and thinnest parts ; and the thickness of West India and barrel staves exceeding the standard breadth to be measured at such standard breadth, to wit : four and three and a half inches respectively, provided the thinnest edge is not less than half an inch ; West India or Puncheon Staves.

25 *The Dimensions of Merchantable Timber* shall be as set forth in the following words and figures : Dimensions of Merchantable Timber.

30 *Oak* shall not be less than twenty feet in length, nor less than ten inches square in the middle ; Oak.

35 *Elm* shall not be less than twenty feet in length, nor less than ten inches square in the middle ; Elm.

White Pine shall not be less than twenty feet in length, and twelve inches square in the middle, and fifteen feet and upwards in length, if sixteen inches and upwards in the middle ; White Pine.

Red

7

Red Pine. *Red Pine* shall not be less than twenty-five feet in length, and ten inches square in the middle, and twenty feet and upwards in the length, if twelve inches square and upwards in the middle ;

Ash, Bass and Butternut. *Ash, Basswood, and Butternut*, shall not be less than fifteen feet in length, and twelve inches square in the middle, nor less than twelve feet in length, if fifteen inches and upwards in the middle ;

Birch. *Birch* shall not be less than six feet in length, nor less than twelve inches square in the middle.

Taper of Merchantable Timber.

Merchantable Timber. *Oak*, 3 inches under 30 feet, and in proportion for any greater length ;

Elm, 2 do for 30 do. do. do. do. do. do ;

White Pine, 1½ do for 20 do. do. do. do. do. do ;

Red Pine, 2 do for 25 do. do. do. do. do. do ;

Ash, Basswood, and Butternut, 1½ do. under 20 feet do do ;

Bends or twists not to exceed one in number.

Hollow allowed on Merchantable Timber.

Allowance on ditto. *Oak*, 3 inches for every 20 feet in length, and in proportion for any greater length ;

Elm, 3 do. do. 20 do. do. do. do ;

White Pine, 2½ do. 20 do. do. do. do. do ;

Red Pine, 3 do. 20 do. do. do. do. do ;

Ash, Basswood, and Butternut, 2½ do 20 feet do.

Dimensions of White Pine Masts, Bowsprits, and Red Pine Spars.

Dimensions of Masts, &c. *White Pine Masts* of 23 inches and upwards at the partners, shall be 3 feet in length to the inch in diameter ;

22 inches do. 3 feet do. do. and 2 feet extreme length ;

21 do. do. 3 feet do. do. and 3 feet do ;

20 do. and under 3 feet do. do. and 4 feet do ;

Hollow or bend not to exceed six inches for seventy feet, and in proportion for any greater length ;

Bowsprits

Bowsprits shall be two feet in length for every inch in diameter **Bowsprits.**
at the partners, adding two feet for extreme length ;

Red Pine Spars shall be three feet to the inch in diameter at **Red Pine**
the partners, and nine feet extreme length ; hollow not to **Spars.**
5 exceed seven inches for sixty feet, and in proportion for any
greater length. 8 V. c. 49, s. 14.

27. In all cases where it shall appear that timber, masts, **Lumber, im-**
spars, boards, planks, deals, staves, oars, or any other descrip- **properly**
tion of lumber, are not properly hewn, squared, butted or edged, **squared, to be**
10 but are merchantable in other respects and sold as such, the **re-dressed.**
Supervisor and Culler, respectively, shall order or cause the
same to be properly dressed and chopped, at the expense of the
seller or the buyer, as the case may be, previously to their being
15 respectively received and certified to be merchantable ; such
dressing and chopping to be done under the direction of the
Culler in charge of the measuring or culling. 8 V. c. 49, s.
15.

28. If any dispute arises between the first buyer or **Provision in**
20 seller, or the person making the requisition, and the Culler em- **case of dis-**
ployed to cull or measure any article of lumber, with regard to **putes between**
the dimensions or quality thereof, the Supervisor, or his Deputy **owner, &c,**
shall (upon a written complaint thereof being made, demand- **and Culler.**
ing a survey,) as soon as possible, cause a Board of Survey **Board for de-**
25 to be held for examining the quality and dimensions of **deciding the**
such lumber, and such Board shall take into consideration the **same on Sur-**
position of such lumber when measured or culled, and all other **vey.**
circumstances and considerations connected therewith, in re-
30 porting thereon ; and such Board shall consist of three persons,
one to be appointed by the Culler whose decision is disputed,
35 one by the party complaining, and one by the Supervisor, and
their determination shall be final and conclusive ; and if the
opinion and act of the Culler be confirmed, the reasonable costs
and charges of re-examination shall be paid by the party
complaining, but if otherwise, by the Culler :

35. But such survey must be demanded when the culling or **When Survey**
measuring is completed, or within two lawful days after the **must be de-**
party demanding the survey shall have been furnished with the **manded.**
specification thereof, and such right of survey shall cease on
and after the fifteenth day of November in each year ;

40 And for the more ready settlement of disputes with the con- **One Culler**
sent and at the request of buyer, seller and culler concerned, **may be ap-**
the Supervisor or his Deputy may name one Culler to act as **pointed to**
Surveyor ; and if the Culler so named is not objected to by any **act, by con-**
45 of the parties interested, he shall act in the capacity of a Board **sent.**
of Survey, and his determination shall be final and conclusive.
8 V. c. 49, s. 23.

CHARGES FOR CULLING AND MEASURING, &c.

Fees for culling, measuring and counting.

29. The rates hereinafter set forth in words and figures, shall be charged and collected by the Supervisor as the fees and charges for culling, measuring or counting off each description of lumber, and shall include all charges and expenses against such lumber, except in cases where extra labour for canting, dressing, butting, chopping and piling, is necessary and required :

For Measuring off or Counting Lumber :

White Pine, Bass, or Butternut, per ton, two pence half-penny ;

Red Pine, three pence half-penny ;

Hardwood, three pence half penny ;

Oars and Handspikes, counted off, per 100 pieces, one shilling ;

Deals, counted off, one shilling per hundred standard ;

For Culling and Measuring in a Merchantable State, or Measuring in Shipping Order, or Counting off, where not herein otherwise provided for :

White Pine, Timber per ton, five pence ;

Red Pine Timber, per ton, five pence half-penny ;

Hardwood Timber, per ton, six pence half-penny ;

Deals, per standard hundred, two shillings and six pence ;

Planks, two inches and under, per hundred pieces, one shilling and nine pence ;

Standard Staves, per mille, twelve shillings and six pence ;

West India Staves, per mille, five shillings and six pence ;

Barrel Staves, per mille, four shillings ;

Oars, per hundred pieces, four shillings ;

Handspikes, per hundred pieces, three shillings ;

Spars, from 12 to 19 inches each, two shillings ;

Masts and Bowsprits, 19 to 24 inches each, three shillings ;

(Twenty cents)
(Twenty cents)

(fifty cents)

(Thirty five cents)

~~one dollar and fifty cents~~
one dollar and ten cents

eighty cents

eighty cents

sixty cents

forty cents

sixty cents

Masts

Masts and Bowsprits, 24 inches and upwards each, three shillings and six pence;

Seventy cents

Lathwood, per cord, one shilling and six pence;

Thirty cents

And one-half of such rates for culling, measuring or counting, shall be paid by the buyer, and the other half by the seller; but the whole of such fees and rates shall in all cases be paid to the Supervisor or his Deputy (on the delivery of the specification, or on the presentation of an account thereof) by the person, or by the persons jointly or severally, who shall have filed a requisition or order for such measuring, counting or culling, whether such person or persons be buyer, seller, owner, or possessor of such lumber. 8 V. c. 49, s. 16.

30. Cullers employed by the Supervisor shall, in consideration of their labour and services, receive from the Supervisor the following portions of the fees charged and collected by him:

For Lumber Measured off or Counted off:

White Pine, Bass, or Butternut, one penny half-penny per ton;

Red Pine, two pence per ton;

Hardwood, two pence per ton;

20 Oars and Handspikes, counted off, nine pence per hundred pieces;

Deals, counted off, nine pence per hundred standard;---

fifteen cents

For Culling and Measuring in a Merchantable State, or Measuring in Shipping Order, or Counting off, where not herein otherwise provided for:

fifteen cents

White Pine, Bass, or Butternut, three pence half-penny per ton;

25 Red Pine, four pence per ton;

Hardwood, four pence half-penny per ton;

Deals, per standard hundred, two shillings;

forty cents

Planks and Boards, per hundred pieces, one shilling and five pence;

two dollars

30 Standard Staves, per mille, ten shillings;

ninety cents

West India Staves, per mille, four shillings and six pence.

Barrel

<i>sixty five cents</i>	Barrel Staves, per mille, three shillings and three pence;
<i>sixty five cents</i>	Oars, per hundred pieces, three shillings and three pence;
<i>forty five cents</i>	Handspikes, per hundred pieces, two shillings and three pence;
	Spars, from 12 to 19 inches each, one shilling and four pence;
<i>forty cents</i>	Masts and Bowsprits, 19 to 24 inches each, two shillings;
<i>fifty cents</i>	Masts and Bowsprits, 24 inches and upwards each, two shillings and six pence;
	Lathwood, per cord, one shilling and two pence;---

Provided always, that the Cullers shall pay their Attendants or Assistants out of the portion of fees above assigned to them. 10
8 V. c. 49, s. 17.

Act

Governor in Council may alter tariff of fees.

31. The Governor in Council, may from time to time, raise or lower the tariff of fees and charges for culling and measuring and counting off, established by this Chapter, in such manner as to meet and defray, as nearly as possible, the expenses of the Supervisor's office, and to provide for the sufficient payment of the Cullers, and may also apportion such fees between the Cullers in the different departments respectively, and the expense of the Supervisor's establishment, in such manner as to the Governor in Council shall seem equitable. 8
V. c. 49, s. 18.

SUPERVISOR'S OFFICE, SALARY, &C.

Supervisor to procure office, with furniture, stationery, &c. He may also employ Clerks.

How paid.

Supervisor's duties.

32. The Supervisor may procure an office, the necessary office furniture, books, stationery, and other indispensable requisites, all of which, and every Record and Voucher pertaining to his office, shall be the property of Her Majesty, for the public uses of the Province; and he may also employ such number of Clerks as may be required to perform the duties of his office; and all such charges and expenses, together with Cullers' fees, shall be paid out of the fees collected by him; Provided always, that such charges, expenses and services, shall be procured and paid for by him at their lowest current value. 8 V. c. 49, s. 19.

33. The Supervisor shall on or before the first day of January, in each year, under oath, (to be administered by any Justice of the Peace,) render in duplicate to the Governor, and for the use of the Legislature, a correct and detailed statement of his receipts and disbursements during the year then last past, all which accounts shall be audited as public accounts and shall be accompanied by an inventory of such articles of public property

property as the Supervisor shall ~~then have in his possession,~~ and an abstract of the number of pieces, ~~and number of cubic~~ feet of each description of lumber measured under his superintendence, and the sections of the Province wherefrom such lumber respectively came; and all the transactions of the Supervisor's office shall be traced, set forth, and kept in detail, in a regular and proper set of Books adapted thereto, which Books shall belong to Her Majesty ~~for the public uses of the~~ Province. 8 V. c. 49, s. 19.

10 **34.** The Measurement Books, and all other Public Documents in the office of the Supervisor, shall be open to the perusal of the seller and buyer of lumber, with reference to any transactions between them, and to the perusal of any other party interested therein. 8 V. c. 49, s. 20.

Supervisor's Books to be open to inspection

15 **35.** The Supervisor may ~~receive and take out of the~~ funds coming into his hands, the sum of ~~five hundred pounds,~~ currency, as an annual salary for his services, exclusive of all the expenses of his office, and he shall report in his returns to the Government, and for the use of the Legislature, the surplus or deficiency of funds which shall be after the payment and discharge of his said salary and the expenses of his office; and such surplus (if any) shall be disposed and applied as may be found expedient, exclusively for the purposes of this Act, under the control of and as directed by the Governor in Council. 8 V. c. 49, s. 21,--and 9 V. c. 16.

Supervisor's salary.

Two thousand dollars

And see 18 V. c. 89, under which it may have been increased to £560?

MISCELLANEOUS PROVISIONS, OFFENCES AND PENALTIES.

20 **36.** Any Culler licensed under this Act, and not employed by the Supervisor, may engage or hire himself to Merchants or others, as a Shipping Culler; but such Culler shall in no case measure, cull, count, stamp or mark any description of lumber, before the same shall have been first measured by the Supervisor, except by the written permission of the Supervisor, and in accordance with the same rules and on the same terms by which Cullers acting under the Supervisor are bound, according to this chapter, and he shall also keep a record of all his operations, returns of which he shall make monthly to the Supervisor;--And any Culler, so hired and engaged, offending against this Act, shall incur a penalty not exceeding ~~one hundred pounds,~~ or imprisonment for a term not exceeding six ~~calendar~~ months, in the discretion of the Court, for each such offence. 8 V. c. 49, s. 22.

Licensed Cullers may hire themselves to Merchants on certain conditions.

Act

four hundred dol

Penalty for infringement.

45 **37.** Any person not licensed as a Culler, who measures, culls, marks or stamps any article of lumber, the same being shipped or intended to be shipped by such measurement, or measured, culled, marked or stamped, with intent to evade or elude the provisions of this ~~chapter,~~ shall incur a penalty not exceeding

Unlicensed Culler measuring, stamping, &c., to incur a penalty.

Act

four hundred dollars

of

Penalty on Culler measuring without the knowledge and consent of Supervisor.

four hundred dollars

of

Supervisor and Cullers not to deal in lumber.

four hundred dollars

two hundred dollars.

Penalty.

four hundred dollars

Penalty on Supervisor or Culler guilty of partiality, &c.

eighty dollars

Penalty.

Act

Persons assaulting any Culler shall incur a penalty.

forty dollars
twenty dollars

exceeding ~~one hundred pounds~~, or imprisonment for a term not exceeding six calendar months, in the discretion of the Court, for each such offence; and any Culler employed by the Supervisor, who shall privily, and without the knowledge and consent of the Supervisor, or for hire or gain, and without the same being duly entered on the Books of the Supervisor, measure, cull, mark or stamp any article of lumber, shall incur a penalty not exceeding ~~one hundred pounds~~, or imprisonment for a term not exceeding six calendar months, in the discretion of the Court, for each such offence. 8 V. c. 49, s. 22.

38. Neither the Supervisor, nor any licensed Culler, shall buy or sell directly or indirectly, or be a dealer in or interested in buying or selling any article of lumber, either on his own or on account of any other person whomsoever, under a penalty for each offence not exceeding ~~one hundred pounds~~, nor less than ~~fifty pounds~~, currency, and the forfeiture of his office. 8 V. c. 49, s. 25.

39. If the Supervisor, or his Deputy, or any licensed Culler, or any Clerk or Assistant Measurer, employed by the Supervisor, or by any Culler, is at any time guilty of wilful neglect of his duty, or of partiality in the execution of the duties of his office, or of wilfully giving a false account or certificate of the article or articles of lumber submitted to his inspection, measurement or calculation, or of any other wilful neglect or prevarication with regard to the duty he is intended to discharge, he shall, for every such offence, incur a penalty not exceeding ~~one hundred pounds~~, and be dismissed from his office, and be ever after incapable of holding any such situation or employment. 8 V. c. 49, s. 26.

40. All Cullers employed by the Supervisor shall obey his lawful commands, and shall respectively hold themselves in readiness, on all lawful days, to execute the duties of their office from day-light until dark; and for each neglect, refusal or delay, when not otherwise employed about the duties of his office, the Culler shall forfeit ~~twenty pounds~~, to the use of the person injured by such neglect, refusal or delay; and any Culler so employed, guilty of impropriety of conduct or disobedience of orders, or incapacity, may be suspended from office by the Supervisor, subject to an appeal to the Board of Examiners. 8 V. c. 49, s. 10.

41. Whoever assaults any Culler in the execution of his duty under this ~~chapter~~, or by threats, menaces, or by violence, impedes or prevents any Culler from the performance of his duty, shall upon being convicted thereof before any one or more of Her Majesty's Justices of the Peace of the District in which the offence is committed, upon the oath of one credible witness, incur a penalty not exceeding ~~ten pounds~~, and not less than ~~five pounds~~, and in default of payment shall forthwith be committed

committed to the common Gaol, there to be detained for a space not exceeding two months, unless he shall sooner pay the penalty imposed. 8 V. c. 49, s. 27.

42. Whoever unlawfully uses or counterfeits or forges or procures to be counterfeited or forged, any stamp directed to be provided for use, in pursuance of this chapter, or counterfeits or imitates the impression of the same on any article of lumber, or knowingly, wilfully and fraudulently defaces, obliterates or removes any of the marks or letters, marked, indented, or imprinted in or upon any article of lumber, after the same has been as aforesaid culled or measured, shall incur a penalty not exceeding ~~50~~ pounds, or be imprisoned for not more than three calendar months, in the discretion of the Court 8 V. c. 49, s. 29.

Penalty on persons counterfeiting or fraudulently using stamps, &c.

act

two hundred dollars
of

43. Whoever wilfully and unlawfully (with the intention to set adrift) unmoors, by cutting or otherwise, any timber, masts, spars, staves, oars, handspikes, planks, boards, sawlogs, or other description of lumber, or any boat, bateau or scow, or wilfully and unlawfully conceals any article or thing aforesaid which, having been adrift in any river or lake in this Province, is so found adrift or cast on shore in any part of such river or lake, or any of them, and is saved, or wilfully and unlawfully defaces or adds any mark or number on any article or thing aforesaid, so saved, or makes any false or counterfeit mark thereon, or unlawfully aids or assists in doing any such act as aforesaid, or refuses to deliver up to the proper owners thereof, or person in charge of the same on behalf of such owner, any such article or thing, shall incur a penalty not exceeding ~~one hundred~~ pounds, nor less than ~~five~~ pounds, for each offence :

Penalty on persons setting timber adrift, or concealing timber found adrift ;

Or defacing marks.

four hundred dollars
twenty dollars.

One moiety of such penalty shall go to Her Majesty, and the other moiety to the informer or prosecutor, and the offender shall be imprisoned until such forfeiture be paid, but no imprisonment shall, for any first offence, exceed three calendar months; and if any person be a second time convicted of any such offence, such person may be committed to the Common Gaol for not exceeding twelve calendar months. 8 V. c. 49, s. 30.

Distribution of penalty.

of
of

44. The owner or conductor of every raft, shall have a bright fire kept burning during the night, while drifting on any of the navigable rivers in this Province, and shall for every contravention of this section incur a penalty not exceeding ~~ten~~ pounds, recoverable before any two Justices of the Peace. 8 V. c. 49, s. 31. *Should perhaps be in navigation chapter.*

Rafts to have bright fires at night.

of forty dollars

45. All the penalties and forfeitures by this chapter imposed, must be sued for (except where otherwise provided) within twelve calendar months after the fact committed, and not afterwards, either in term time, before any of Her Majesty's Superior

Penalties, how recoverable.

Superior Courts of Record, or before any other Court having civil jurisdiction, to the amount of the penalty, or forfeiture, in the place where the offence has been committed, or in vacation before any Justice or Judge of such Court, in a summary manner, and shall be recoverable, with costs, in the same manner as other debts of the same value are recoverable in this Province, by bill, suit, plaint, or information :

And how disposed of.

One moiety of all such penalties, fines and forfeitures, (except such as are hereinbefore otherwise applied) shall be forthwith paid over to the Receiver General), and shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for accordingly, and the other moiety shall belong to the party aggrieved, or to the informer or person who shall prosecute or sue for the same. 8 V. c. 49, s. 32.

Act of

Time within which actions for things due in pursuance of this chapter must be brought.

46. Every action against any person, for any thing done in pursuance of this chapter, must be commenced within the space of twelve calendar months next after the offence shall have been committed, and not afterwards ; and the defendant in such an action may plead the general issue, and give this as the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this chapter ; and if it appears so to have been done, then judgment shall be given, or a verdict found for the defendant ; and if the plaintiff is nonsuited, or discontinues his action after the defendant has appeared, or if judgment is given against the plaintiff, the defendant shall recover costs, and have the like remedy for the same as defendants have in other cases by law. 8 V. c. 49, s. 33.

Defendant, if successful, to have costs.

Act

Culling of lumber not compulsory when shipped by the producer.

47. Nothing in this chapter shall make it compulsory for any article of lumber to be measured, culled or assorted, under this chapter, provided such lumber be shipped for exportation by sea for account (in good faith) of the actual and bona fide producer or manufacturer thereof ; but all other lumber shipped for exportation by sea, shall be either measured, culled or counted (at the option of parties) by a licensed Culler, under the control and superintendance of the Supervisor, under a penalty equal to the market value of any article of lumber so illegally shipped, to be imposed upon the owner or shipper of such lumber or upon the proprietor or proprietors lessee or lessees of the premises from which such lumber has been so illegally shipped :

21

Proof of the fact of lumber having been placed alongside, or taken on board any sea-going ship or vessel, shall be sufficient evidence of such illegal shipping for exportation by sea ;

31

Act

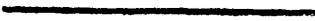
And the proof of the measuring, culling or counting of such lumber, in conformity with this chapter, shall lie upon the party charged with such illegal shipping ; and the market value of any

any article of lumber so illegally shipped, shall be ascertained by the certificate of the Council of the Quebec Board of Trade, or by a certificate under the hand of the Supervisor :

Provided always, that the provisions of this ~~chapter~~ shall not extend to any place below the eastern end of the Island of Orleans. Chapter not to extend below Island of Orleans.

8 V. c. 49, s. 24.

act
act



CAP. XLVII.

An Act respecting the Inspection of Flour and Meal.

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

BOARD OF EXAMINERS OF INSPECTORS.

Municipal authorities to appoint Examiners of applicants for the office of Inspector, except in certain cities.

1. The Municipal Authorities in each of the places where Inspectors are required for the purposes of this chapter, other than the Cities of Quebec, Montreal, Kingston, Toronto and Hamilton, may appoint a Board of Examiners of applicants for the office of Inspector of Flour and Meal, and may from time to time remove such Examiners and appoint others in their stead; and each Board of Examiners shall consist of three skilful and fit persons resident in the place or in the immediate vicinity of the place, for which they are respectively to act. 19, 20 V. c. 87, s. 3--part--as amended by 22 V. c. 24, s. 2.

Examiner to take an oath.

2. Every such Examiner shall, before acting as such, take and subscribe the following oath, before any Justice of the Peace, for the District, County or City in which the Examiner is to act, and such Justice shall administer the same :

The oath.

" I, A. B., do swear that I will not directly or indirectly, personally or by means of any person or persons on my behalf, receive any fee, reward, or gratuity whatever, by reason of any function of my Office as Examiner of applicants for the office of Inspector of Flour and Meal, and that I will therein well and truly in all things act without partiality, favour or affection, and to the best of my knowledge and understanding. So help me God."

Which oath shall remain in the custody of the Justice administering it. 19, 20 V. c. 87, s. 3--part.

Boards of Examiners, in certain cities.

3. The Boards of Examiners of Applicants for the office of Inspector of Flour and Meal, in each of the Cities of Quebec, Montreal, Toronto, Kingston and Hamilton, respectively, shall consist of five fit, proper and skilful persons, resident in or in the immediate vicinity of the City for which they are respectively to act :

Term of office of first Board.

2. The Examiners appointed under the Act twenty-second of Victoria, chapter twenty-four, shall hold their office until the thirtieth day of April next after their appointment, and shall then go out of office, but shall be eligible for re-appointment ;

3. On or so soon as may be after the tenth day of April, and before the twenty-fifth day of the same month, in each year, the Council of the Board of Trade, in each of the said Cities, shall appoint five persons to constitute the Board of Examiners for the City, for the year commencing on the first day of May then next, and ending on the thirtieth of April, in the then next year; and each such Examiner shall take the oath of office in the next preceding section, before the President or Vice President of such Board of Trade;

Afterwards Council of Board of Trade to appoint five persons to be the Board of Examiners.

4. The said Examiners shall not be removeable by the Council of the Board of Trade by which they are appointed, but in case of vacancy by the death or the removal of any Examiner beyond the immediate vicinity of the City for which he is appointed, the Council of the Board of Trade for such City may appoint another in his stead, to hold office until the thirtieth day of April then next, and the person so appointed shall take the said oath of office before the President or Vice President of such Board of Trade: And in the event of the temporary absence or inability of any such Examiner, from sickness or interest in any matter in which an Examiner is required to act, the Council of the Board of Trade may appoint another to hold office and act during such absence only, and he shall take the said oath of office before the President or Vice President of the said Board of Trade. 22 V. c. 24, s. 2.

Examiners not removeable by Board of Trade.

Vacancies by death, etc., how supplied.

In case of absence from sickness, &c.

4. The Board of Examiners shall, before proceeding to the examination of any person desirous of being appointed an Inspector of Flour and Meal, require the attendance of two or more persons of great experience and practice in the manufacture of Flour and Meal, or of the fullest knowledge of the qualities of Flour and Meal; and the said Board, in their discretion, may permit any other persons to be also present at such examination, and every person so required or permitted to attend, in the presence of the said Board, propose questions to the person then under examination touching his knowledge as to quality, manufacture or other matters relating to the Inspection of Flour and Meal. 19, 20 V. c. 87, s. 6.

Board of Examiners to be assisted by competent persons.

Other persons may propose questions.

APPOINTMENT OF INSPECTORS AND ASSISTANTS.

5. The Mayor of each of the Cities of Quebec, Montreal, Toronto, Kingston and Hamilton, respectively, and the Mayor or Chief Municipal Officer of any such other place as aforesaid, shall, from time to time, by an instrument under his hand and the seal of the Corporation, appoint an Inspector of Flour and Meal, for the City or place of which he is Mayor or Chief Municipal Officer: But no person shall be appointed as such Inspector who has not previously to his appointment, undergone an examination before the Board of Examiners of the place for which he is to be appointed, as to fitness, character and capacity, in the manner herein provided; nor shall any person be

Mayor or Chief Municipal Officer to appoint an Inspector.

Inspector must have passed an examination.

Not to be appointed except on requisition of Board of Trade, &c. appointed an Inspector of Flour and Meal unless recommended as such by such Board of Examiners, or a majority of them, pursuant to such Examination, nor shall any Inspector be appointed in any place in which there is a Board of Trade, except on the requisition of such Board, with which the Mayor or Chief Municipal Officer shall be bound to comply. *Ibid*, s. 4--part.

Inspector to give security. **6.** Before any Inspector shall act as such, he shall furnish two good and sufficient sureties, jointly and severally with himself, for the due performance of the duties of his office, in the sum of five hundred pounds, if such Inspector be appointed for the City of Quebec or for the City of Montreal, and in the sum of two hundred and fifty pounds, if such Inspector be appointed for the City of Toronto or of Kingston or Hamilton, or for any other place for which an Inspector may be appointed; and such sureties shall be subject to approval by the Mayor or other Chief Municipal Officer by whom the Inspector has been appointed, in whose keeping the Bond shall remain; and the Bond shall be executed to Her Majesty, Her Heirs and Successors, in the form used with regard to sureties from persons appointed in the Offices of Trust in this Province, and shall avail to the Crown and to all persons aggrieved by any breach of the conditions thereof. *Ibid*, s. 4--part.

Form of Bond, &c.

Custody of Bond.

Fee for inspecting it.

7. The Bond so given by any Inspector shall be made and kept at the Office of the Clerk of the Corporation of the city or place for which such Inspector is appointed; and every person shall be entitled to have communication and copy of any such Bond at such Clerk's Office, upon payment of one shilling for every communication, and two shillings and six pence for each copy. *Ibid*, s. 5.

Security given before 22 V. c. 24, not to be affected by that Act.

8. Nothing in the Act twenty-second Victoria, chapter twenty-four, or in this chapter, shall affect any security Bond given by any Inspector of Flour and Meal before the passing of that Act, unless the sureties in such Bond withdrew in the manner thereby prescribed after giving notice of their intention to withdraw within fifteen days after the Act came into force; in which case all the provisions of this chapter relative to the giving of security, and its nature, extent and effect, and prohibiting the Inspector from acting until he has given security, shall apply to the Inspector whose sureties so withdrew, and to the new bond and sureties which he is required to give. 22 V. c. 24, s. 6.

Oath of office to be taken by Inspector.

9. Every Inspector of Flour and Meal shall, before he acts as such, take and subscribe an Oath before any one Justice of the Peace for the District, County or City in which he shall be appointed, (who shall administer the same) in the words following:

“ I, A. B., do solemnly swear that I will faithfully, truly and
 “ impartially, to the best of my judgment, skill and understand- Form of oath.
 “ ing, execute and perform the office and duty of an Inspector of
 “ Flour and Meal, and that I will not directly or indirectly, by
 5 “ myself or by any other person or persons whomsoever, trade
 “ or deal in Flour, Indian Meal or Oatmeal, or be connected in
 “ any such Trade, nor purchase any Flour, Indian Meal or
 “ Oatmeal of any description, otherwise than for the use and
 “ consumption of my family, during the time I shall continue
 10 “ such Inspector. So help me God.”

Which Oath shall be recorded in the Office of the Clerk of the Oath to be re-
 corded.
 Corporation of the City or place where the same shall be
 taken ; and for recording such Oath and for a Certificate
 thereof, the Clerk shall be entitled to the sum of two shillings
 15 and six pence, and no more, and shall give communication or Fee for in-
 specting it.
 copy of the original to any person applying for the same, on
 payment of one shilling, for each such communication, and two
 shillings and six pence, for each copy. 19, 20 V. c. 87, s. 7.

10. The Inspector of Flour and Meal for the City of Quebec, Inspector for
 Quebec and
 Montreal
 bound to
 have assist-
 ants.
 20 and the Inspector for the City of Montreal, shall each appoint
 one or as many more Assistants as the Board of Trade of the
 City for which he is appointed, may from time to time direct,
 for the acts of which Assistants he shall be responsible ; and
 he shall from time to time, on a requisition in writing from the
 25 said Board increase the number of such Assistants ; But each
 such Assistant must, before his appointment have been approved
 by the said Board of Examiners and skilful persons sitting
 with them, as provided with regard to Inspectors, and shall,
 before entering upon the duties of his office, furnish two good
 30 and sufficient sureties, to be bound jointly and severally with
 himself, to Her Majesty, in the sum of two hundred and fifty
 pounds, for the due performance of his duties, by a Bond to be
 made and kept as provided with regards to the Bonds given by
 35 Inspectors, and shall take and subscribe the following Oath, To be sworn.
 before the Mayor of the City for which he shall be appointed,
 who shall administer the same :

“ I, A. B., do swear that I will diligently, faithfully and Oath.
 “ impartially, perform the duties of the office of Assistant
 “ to the Inspector of Flour and Meal for the City of
 ; and that I will not directly or indirectly,
 40 “ personally or by means of any person or persons in my be-
 “ half, receive any fee, reward or gratuity whatever, by reason of
 “ my office of Assistant to the said Inspector, (except my sala-
 “ ry from the said Inspector) and that I will not directly or in-
 45 “ directly trade in the articles of Flour, Indian Meal or Oatmeal,
 “ or be in any manner concerned in the purchase or sale of
 “ Flour or Meal, except so far as may be necessary for the use
 “ of myself and family. So help me God.”

And

Custody of Bond and oath.

And such Bond and Oath as aforesaid, shall be open to inspection, and copies may be had thereof, on the conditions hereinbefore provided with regard to the Bond given and the Oath taken by the Inspector. *Ibid*, s. 9.

Assistants to be paid by the Inspector, and to be sworn.

11. The said Assistants shall respectively be paid by the Inspector appointing them, and shall hold their offices at his pleasure, and no such Inspector shall allow any person to act for him about the duties of his office, excepting only his sworn Assistant or Assistants, appointed as aforesaid. *Ibid*, s. 10, and part of s. 4.

Board of Trade may examine into complaints, &c., against Inspectors or assistants, &c.

12. The Board of Trade of any City or place may examine into any complaints made against any Inspector or Assistant Inspector of Flour and Meal thereat, for neglect of or improper performance of his duties, and if they decide that such complaints are well founded, and that such Inspector or Assistant Inspector ought to be removed from office, they may notify such decision to the Mayor or other Head of the Municipality, who shall thereupon remove such Inspector or Assistant Inspector from his office, and shall appoint another in his stead, upon the requisition of the said Board. *Ibid*, s. 11.

MODE OF INSPECTING AND BRANDING FLOUR, &c.

Mode of inspecting, and on whose requisition inspection shall be made.

13. The Inspectors and Assistant Inspectors so appointed, shall respectively examine and inspect every barrel and half barrel of Flour and Meal, on application being made for that purpose by the proprietor or possessor thereof, and shall ascertain the qualities and conditions thereof, by boring the head of each barrel or half barrel, and proving the contents to the whole depth of the cask, by an instrument (not exceeding five eighths of an inch in diameter within its gauge or bore) for that purpose; and after inspecting such Flour or Meal, the Inspector or Assistant Inspector, shall cause the hole bored in each barrel or half barrel for inspection to be plugged: and such inspection may be made either at the Store or Warehouse of such Inspector, or at some Store within the limits of the place for which the Inspector be appointed, at the option of the owner or possessor of such Flour or Meal; and every Inspector shall provide and keep in some convenient situation in the place for which he is appointed, a proper Store or Warehouse for the reception and inspection of Flour and Meal. *Ibid*, s. 12.

Where the inspection shall be made.

Flour, &c., taken from barrel for inspection to be given back if required.

14. Each Inspector or Assistant Inspector shall, if required, deliver all Flour or Meal taken from any barrel or half barrel with the instrument used for the purpose of inspection, to the person requiring such inspection, and shall incur a penalty of five pounds, currency, every time he fails in so doing. *Ibid*, s. 13.

15. Each Inspector shall provide and have a sufficient number of iron or other metal brands, and every Inspector or Assistant Inspector shall, in the inspection of Flour or Meal, observe the following rules :
- Inspector to have proper branding irons.
- 5 1. He shall, immediately after inspection, brand on each and every barrel or half barrel of Flour or Meal, the words "Quebec," "Montreal," "Toronto," "Kingston," "Hamilton," or the name of any other place where the inspection is made, and the initial of the Christian name and the Surname at full length of the Inspector, with the quality of the Flour or Meal as hereinafter directed ;
- Every barrel, &c., to be branded, &c., and how.
2. On each and every barrel or half barrel of Flour or Meal, which may on inspection be found sour, without any other damage or unmerchantable quality, he shall brand the word "Sour" in letters as large as those upon the rest of the brand or mark, in addition to the brand or mark designating the quality ;
- Sour flour, how to be marked.
3. In all cases where Flour or Meal is found to be of unsound or unmerchantable quality from other causes, he shall brand the word "Rejected" at full length, and in plain legible characters, in addition to the brand or mark designating the quality ;
- Unmerchantable flour, how to be marked.
4. In all cases where the quality of the Flour or Meal inspected appears to be inferior to the brand or other mark of the manufacturer, and not to be thereby properly designated, the Inspector or Assistant Inspector shall erase and correct the same. The Inspector or Assistant Inspector shall also brand or mark on each barrel of Flour or half barrel of Flour or Meal inspected by him, the month and year in which it is inspected, with the quality of the Flour or Meal therein ;
- Flour not corresponding to the maker's brands.
- Date of inspection to be marked.
5. All the said brands and other marks shall be branded or marked on one head of the barrel or half barrel ;
- Barrels to be branded on the head.
6. For such inspection and branding or marking, the person who required the inspection thereof shall pay to the Inspector for each and every barrel and half barrel of Flour or Meal so inspected and branded or marked, the sum of one penny currency, (exclusive of cooperage) before such Flour and Meal shall be removed ;
- Fee for inspection.
7. As soon as any Flour or Meal is inspected, a Bill of inspection shall be furnished by the Inspector or Assistant Inspector without fee or reward, specifying neatly and legibly the quantity and quality ascertained by inspection, and the charges therefor, and the owner's or manufacturer's mark or marks ; and the gross quantity of Flour or Meal taken by the Instrument used for the purpose of Inspection from the lot in respect of which such Bill of Inspection is given ; (as amended by 22 V. c. 24, s. 5.)
- Bill of inspection to be given.

Penalty for false statement therein.

8. If any Inspector or Assistant Inspector, knowingly and wilfully gives, in any Bill of Inspection, an untrue and incorrect certificate of the quantity or quality of any Flour or Meal by him inspected, or gives such Bill without a personal examination and inspection of such Flour or Meal, he shall incur a penalty of twenty pounds, for each offense, and be dismissed from his office and be disqualified from ever after holding the same;

Proviso: as to flour re-inspected.

9. Provided always, that no Flour or Meal which has been so inspected, branded or marked in one month or year, and re-inspected and examined in another, shall bear any other brand or mark of the year and month than that originally affixed to it;

Manufacturer's or maker's marks required.

10. Provided also that the Inspector, or Assistant Inspector, shall examine each and every barrel of Flour or Meal offered for Inspection, and shall in no case brand or mark the same, unless the name of the manufacturer or packer, the place of packing, and the quality of the Flour and Meal, and the tare and net weight, are branded or marked legibly thereon. *Ibid*, s. 14---divided.

Mode of branding.

16. All the said brand marks shall be neat and legible, and each Inspector of Flour and Meal shall govern himself, as far as may be possible, by one uniform standard of quality for each description of Flour and Meal, and shall brand or mark, within a space not exceeding fourteen inches long by eight inches broad, on every barrel and half barrel of Flour and Meal inspected by him, all brands and marks required by this chapter, under a penalty of five pounds for each barrel or half barrel inspected and branded, or inspected and marked, otherwise than is required by this Act. *Ibid*, s. 16.

Penalty for contravention.

Qualities of Flour.

17. In branding or marking the different qualities or descriptions of Flour, the same shall be designated as follows:

That of a very superior quality, by the words "Extra Superfine";

That of the second quality, by the words "Fancy Superfine";

That of the third quality, by the word "Superfine";

That of the fourth quality, by the words "Superfine Number Two";

That of the fifth quality, by the word "Fine";

That of the sixth quality, by the words "Fine Middlings";

That of the seventh quality, by the words "Ship Stuff" or "Pollards";

And

And the quality called *Farine entière* by the letters E. N. T., by which latter description of Flour shall be understood the whole produce of the wheat when ground, excepting the coarse Bran and Pollards;

5 When the wheat from which Flour of any of the qualities is manufactured was previously kiln dried, the same shall be branded or marked by the Packer on each and every barrel or half barrel, either at length or by the mark "Kiln D";

10 And in branding or marking the different qualities of Rye Flour, Indian Meal, or Oatmeal, the words "Rye Flour"—"Indian Meal"—or "Oatmeal" (as the case may be), shall be plainly branded or marked on every barrel and half barrel, to designate the Grain from which the same is made;—and the qualities shall be designated as follows:

Qualities of Rye Flour, Indian Meal, &c.

15 The superior quality of Rye Flour, by the word "Superfine"

The second quality, by the word "Fine";

The Superfine qualities of Indian Meal or Oatmeal, by the word "First";

The second quality, by the word "Second"; and

20 The third quality, by the word "Third". *Ibid*, s. 23.

18. Every Inspector of Flour and Meal shall, at his own expense, provide sufficient Samples of each of the qualities hereinbefore mentioned of Flour and Meal, such Samples to be approved by the Board of Trade for the City or place for which the Inspector is appointed; and such Samples shall be renewed as often as may be requisite, by the Inspector, at his cost, and shall be kept by the Secretary of the said Board of Trade, to be referred to as occasion may require, and shall be the Standards by which the Inspector shall be governed in establishing the several qualities of Flour and Meal; *Ibid*, s. 24.

Samples of the several qualities to be provided.

To be kept by Secretary of Board of Trade.

2. But whenever any of the samples of the several qualities of Flour and Meal referred to in this section, and provided by the Inspector at any one of the Cities of Quebec, Montreal, Kingston, Toronto or Hamilton, require to be renewed, the new sample or samples to be provided by the Inspector and referred to by him for his government in inspecting Flour and Meal, shall be such and such only as are approved by a majority of the Board of Examiners of the City, as truly representing the standard approved by the Board of Trade for the same; and the Board of Trade for any of the said Cities shall not renew the samples of any quality of Flour or Meal, except only between the fifteenth day of August and the fifteenth day of September in any year. 22 V. c. 24, s. 3.

Proceedings when the samples require to be renewed, &c.

- Weight of barrels of Flour. **19.** Every half barrel of Flour shall contain ninety-eight pounds net, and every barrel of Flour shall contain one hundred and ninety-six pounds net ;
- Rye Flour. Every half barrel of Rye Flour shall contain ninety-eight pounds net, and every barrel of Rye Flour shall contain one hundred and ninety-six pounds net ;
- Indian Meal. Every half barrel of Indian Meal shall contain ninety-eight pounds net, and every barrel of Indian Meal shall contain one hundred and ninety-six pounds net ;
- Oatmeal. Every half barrel of Oatmeal shall contain one hundred and twelve pounds net, and every barrel of Oatmeal shall contain two hundred and twenty-four pounds net ;

Manufacturer's and Packer's marks. And it shall be the duty of the Packer or Manufacturer to brand, paint or mark the initials of his Christian Name, and his surname at full length, and the name of his mill or place of packing, the quality and weight of the Flour or Meal therein contained, and the tare of the cask, on one end of each and every barrel or half barrel of Flour or Meal packed for sale, in a plain and distinguishable manner, and he shall incur a penalty of Two Shillings, for each and every barrel or half barrel offered for sale or Inspection, with regard to which the requirements of this section are not complied with. *Ibid*, s. 25.

Construction and sizes of barrels or half barrels for Flour. **20.** All Flour packed in this Province for sale, shall be packed in good and strong barrels or half barrels of seasoned oak, elm or other hardwood timber, and made as nearly straight as may be, and the staves of such barrels shall be twenty-seven inches in length from croe to croe, and those of half barrels twenty-two inches in length from croe to croe, with heads of the same ;—the diameter of the heads of the barrels shall be from sixteen and a half inches to seventeen inches, and of half barrels from thirteen and a half to fourteen inches ;—and such barrels and half barrels shall be well seasoned and bound with at least ten wooden hoops, of which three shall be at each end, with a lining hoop within the chimes ; the whole well secured by nails ; under the penalty of two shillings for each cask of Flour offered for sale or exported, which shall not be one of the foregoing description of barrels or half barrels, such penalty to be incurred by the person offering such cask for sale or exporting it. *Ibid*, s. 26.

Penalty for using illegal barrels, &c.

Who shall pay costs of inspection. **21.** In all cases where any Flour or Meal is sold subject to Inspection, the person applying to the Inspector shall be entitled to reimbursement of the price of Inspection from the vendor, if such applicant be not himself the vendor, unless an express stipulation to the contrary is made at the time of the sale or of the agreement to submit to Inspection :—And such agreement to submit to Inspection shall imply a warranty that

Agreement for inspection,—what to imply.

the Flour or Meal is of the quality for which it is sold, and that all the requirements of this chapter have been complied with as to such Flour or Meal and the barrels or half barrels in which it is contained, unless it be otherwise expressly stipulated. *Ibid*---Part of s. 14.

22. Provided always, that nothing in this chapter shall invalidate or in any way alter the true intent and meaning of any contract for the purchase or sale of Flour or Meal made before the first day of July, 1856, and based on the standard of inspection theretofore established and in use in Quebec, Montreal, Toronto, Kingston and Hamilton; and the quality of all or any Flour or Meal so contracted for, purchased or sold, shall, on the requisition of any party interested in such contract, purchase or sale, be ascertained and tested by the Inspector according to the standard of inspection in use at the place of inspection immediately before the said day; and the Inspector shall give a certificate of the quality of such Flour or Meal according to the said standard, but shall nevertheless (if required) brand on the barrels the quality of the Flour or Meal according to the standard of inspection under this Act. *Ibid*, s. 2.

Existing contracts not to be affected.

How Flour to which such contracts refer shall be inspected and branded.

23. The Inspector or Assistant Inspector shall ascertain by examination the weight of the Flour or Meal in every cask which he suspects not to contain the full weight required by this chapter, and if they do not contain such full weight, he shall cause them to be filled up by the person requiring such Flour or Meal to be inspected, so as to contain the weight required by this chapter, and he shall, when required, certify the expense thereby incurred: *Ibid*, s. 15---part.

Weight to be tested.

Deficiency to be made up.

24. And the Inspector or Assistant Inspector shall weigh such proportion of every lot of Flour or Meal offered for ins-

Inspector to weigh a pro-

DISPUTES RESPECTING INSPECTION HOW TO BE SETTLED.

Disagreement between Inspector and owner in places other than in certain Cities to be decided by three persons duly sworn.

Inspector to conform to decision.

Costs, by whom paid.

24. If any dispute arises between any Inspector or Assistant Inspector at any place other than one of the Cities of Quebec, Montreal, Kingston, Toronto or Hamilton, and the owner or possessor of any Flour or Meal by him inspected, with regard to the quality or condition thereof, or relating in any respect to the same, then, upon application by either of the parties in difference to any Justices of the Peace for the District, County or City in which such Inspector or Assistant Inspector shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity, one whereof to be appointed by the Inspector, another by the owner or possessor of the Flour or Meal, and the third by the Justice of the Peace, (who, failing the attendance of either of the parties in difference, shall appoint for him) requiring such three persons forthwith to examine the said Flour and Meal, and report their opinion of the quality and condition thereof under Oath, (which Oath the said Justice shall administer) and their determination, or that of a majority of them, made in writing, shall be final and conclusive, whether approving or disapproving the judgment of the Inspector or Assistant Inspector, who shall immediately attend and conform himself thereto, and shall brand or paint or cause to be branded or painted on each and every barrel or half barrel, the qualities or condition directed by the determination aforesaid ;

2. And if the opinion of the Inspector or Assistant Inspector is thereby confirmed, the reasonable cost and charges of re-examination being ascertained and awarded by the said Justice of the Peace, shall be paid by the said owner or possessor of the Flour or Meal, and if otherwise, by the Inspector, with all damages. *Ibid*, s. 17, as amended by 22 V. c. 24, s. 4.

10 3. The Council of the Board of Trade for each of the said Cities shall, from time to time, make a Tariff of the fees and charges to be allowed for such re-examination and all services and matters connected therewith, and may also establish rules and regulations for the government of the Board of Examiners. 22 V. c. 24, s. 4.

Tariff for re-examining to be made by Council of Board of Trade.

MISCELLANEOUS PROVISIONS.—OFFENCES AND PENALTIES, &c.

26. Every Inspector or Assistant Inspector who refuses or neglects on application to him, made personally or by writing, left at his Dwelling House, Store, Office or Warehouse, on any lawful day between sun-rise and sun-set, by any owner or possessor of Flour or Meal, such Inspector or Assistant Inspector not being at the time of such application employed in inspecting Flour or Meal elsewhere,) forthwith or within two hours thereafter, to proceed to such inspection, shall for every such neglect or refusal incur a penalty of five pounds, recoverable by the person so applying, before any one Justice of the Peace, on the Oath of one credible witness other than such prosecutor, and shall be also liable for all the damages occasioned by such refusal or neglect to the party complaining. 19, 20 V. c. 87, s. 18.

Penalty on Inspector for refusing or neglecting to inspect when called upon at a proper time.

30 37. If upon the inspection of any barrel or half barrel of Flour or Meal, the Inspector or Assistant Inspector shall discover any foreign substance mixed or blended therewith, or packed therein, such Inspector or Assistant Inspector shall forthwith seize and detain the same, and make report thereon to any Justice of the Peace, under Oath, and such Justice may, if he sees fit, authorize the detention of the same in some safe place, until the suit to be instituted for the penalty thereby incurred is determined; and every person wilfully and fraudently mixing or blending any Flour or Meal by him packed for sale or exportation, with any foreign matter, shall, for each such offence incur a penalty not exceeding twenty pounds; but no prosecution, suit or action for the recovery of any such penalty, shall be commenced after the end of one month from the seizure and report so made, by the Inspector or Assistant Inspector; and if such penalty be recovered, the Flour or Meal

Adulterated Flour to be seized.

Penalty.

Forfeiture of such flour, &c. in

of the barrel or half barrel. *Ibid*, s. 20.

Inspectors to
make weekly
returns of
flour or meal
inspected.

29. Every Inspector shall, on Monday in every week, make out, sign and transmit to the Secretary of the Board of Trade for the city or place for which he is appointed, a statement of the quantity and quality of all Flour and Meal inspected or re-inspected by him or his Assistants during the next preceding week, and of all Flour or meal by him or them weighed during such week and found deficient in weight, or in respect of which the tare was falsely marked, stating also the Brand and manufacturers' names. *Ibid*, s. 27. 15 20

Penalty for
knowingly
offering flour
deficient in
weight.

30. If any person knowingly offers for sale any barrel or half barrel of Flour or Meal, upon which the tare shall be undermarked, or in which there shall be a less quantity of Flour or Meal than is branded thereon, he shall incur a penalty of twenty shillings, for every cask so undermarked or deficient, without prejudice to the civil remedy of any party aggrieved, for any damage sustained by him. *Ibid*, s. 21. 25

Penalty on
Inspector
dealing in
flour in any
way.

31. Every Inspector or Assistant Inspector who directly or indirectly trades or deals in Flour or Meal, or is concerned in any such trade, or purchases any Flour or Meal of any description, except for the use and consumption of his family, or acts as agent for any party in the sale or purchase of any Flour or Meal, shall incur a penalty of fifty pounds, for each offence, and shall be immediately removed from his office, and be disqualified from holding such office in future. *Ibid*, s. 22. 30 35

Penalty for
effacing In-
spector's
marks, or
counterfeiting
or altering
marks ;

32. Every manufacturer or packer of Flour or Meal, or other person, who, with a fraudulent intention, effaces or obliterated, or causes to be effaced or obliterated, from any barrel or half barrel of Flour or Meal having undergone Inspection, all or any of the Inspector's marks, or counterfeits any such mark or marks, or impresses or brands any mark or marks purporting to be the mark or marks of the Inspector or of any manufacturer or packer, either with the proper marking tools of such Inspector, manufacturer or packer, or with counterfeit representations thereof, on any barrel or half barrel of Flour or Meal, or empties or partially empties any barrel or half barrel of Flour or Meal marked after Inspection, in order to put into the same barrel or half 40 45

half barrel other Flour or Meal, or uses for the purpose of packing any Flour or Meal any old barrel or half barrel, without destroying the old brand marks before offering the same for sale, or (not being an Inspector or an Assistant Inspector of Flour and Meal) brands or marks any Flour or Meal with the Inspector's marks, and every person in the employ of any manufacturer or packer of Flour or Meal who hires or loans out the marks of his employer to any person whatsoever, or conveys or is privy to any fraudulent evasion of the provisions of this chapter, shall, for every such offence respectively incur a penalty of fifty pounds; and any Inspector or Assistant Inspector who inspects or brands or marks any Flour, or brands or marks any Flour or Meal, out of the local limits for which he is appointed, or hires out his marks to any person whatsoever, or conveys or is privy to any fraudulent evasion of Inspection of Flour or Meal by others, shall, for each such offence, incur a penalty of fifty pounds. *Ibid*, s. 28.

Or using old barrels without renewing marks;

Or using Inspector's brands without authority;

Or hiring out brands, &c.

23. Every penalty and forfeiture imposed by this chapter, not exceeding ten pounds, may, except when it is otherwise herein provided, be recoverable by any Inspector of Flour and Meal, or by any other person suing for the same, in a summary way before any two Justices of the Peace for the place, in their ordinary or other Sessions, and shall, in default of payment, be levied by warrant of distress to be issued by such Justices against the goods and chattels of the offender:

Recovery of penalty or forfeitures.

And where such penalty or forfeiture exceeds ten pounds, it may be sued for and recovered by any such Inspector or other person, by bill, plaint, information or civil action, in a Recorder's Court or in any other Court having jurisdiction in civil cases to the amount, and may be levied by execution as in case of debt;

If the penalty is over ten pounds.

And the moiety of all such penalties (except such as may be herein otherwise applied) when recovered, shall forthwith be paid into the hands of the Treasurer of the city, town or place, for the public uses of the Corporation thereof, and the other moiety shall belong to and be paid to the Inspector or other person who shall sue for the same, unless he be an Officer of the Corporation, in which case the whole penalty shall belong to the Corporation for the uses aforesaid. *Ibid*, s. 29.

Application of penalties.

24. If any action or suit, not otherwise provided for, be brought against any person for any thing done in pursuance of this chapter, or contrary to the provisions thereof, it must be commenced within six months next after the matter or thing done or omitted to be done, and not afterwards; and the Defendant therein may plead the general issue and give this chapter and the special matter in evidence at any trial to be had thereon; and if afterwards judgment is given for the Defendant, or the Plaintiff be non-suit or discontinue his action after the Defendant has appeared,

Limitation of suits for things done under this chapter

General issue.

Plaintiff being non-suit, &c., defendant to have treble costs.

appeared, then such Defendant shall have treble costs against such Plaintiff, and the like remedy for the same as any Defendant hath in other cases to recover costs at Law. s. 30.

Inspection not compulsory. **35.** Nothing in this chapter shall oblige any person to cause any Flour or Meal to be inspected, but if inspected, it shall be subject to the provisions of this chapter, and shall not be marked or branded as inspected unless the said provisions have been in all respects complied with, with respect to such Flour or Meal and the barrels or half barrels in which it is contained. s. 31.

Word "Meal" interpreted. **36.** In this chapter, the word "Meal" includes Indian Meal and Oatmeal. s. 32.

CAP. XLVIII.

An Act respecting the Inspection of Beef and Pork.

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

BOARDS OF EXAMINERS OF INSPECTORS.

1. The Board of Trade in each of the Cities of Quebec, Montreal, Toronto, and Kingston, respectively, and the Municipal authorities in other places where Inspectors are required for the purposes of this chapter, may appoint a Board of Examiners of applicants for the office of Inspector of Beef and Pork, and may from time to time remove such examiners and appoint others in their stead; and such Board of Examiners shall in the Cities of Quebec and Montreal, respectively, consist of five, and in other places of three, skilful and fit persons, resident in the place or in the immediate vicinity of the place for which they are respectively to act; and such Examiners shall, before acting as such, severally take and subscribe the following oath, before any Justice of the Peace for the District or place in which such Examiners are to act, and such Justice shall administer the same:

Boards of Examiners, how appointed and constituted.

Examiners to be sworn.

"I, A. B., do swear that I will not, directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever by reason of any function of my office of Examiner of applicants for the office of Inspector of Beef and Pork, and that I will therein, well and truly in all things, act without partiality, favor or affection, and to the best of my knowledge and understanding. So help me God."

Oath to be taken by the members.

Which oath shall remain in the custody of the Justice administering it. 4, 5 V. c. 88, s. 2.

Custody of oath.

2. The Board of Examiners shall, before proceeding to the examination of any person desirous of being appointed an Inspector of Beef and Pork, require the attendance of two or more persons of great experience and practice in the packing, curing and inspection of Beef and Pork, or of great knowledge of Beef and Pork as to quality and packing; and the said Board in their discretion may permit any other persons to be also present at such examination; and every person so required or permitted to attend, may, in the presence of the said Board, propose questions to the person under examination, touching his knowledge as to quality, packing and curing of and other matters relating to the Inspection of Beef and Pork. *Ibid*, s. 5.

Board of Examiners shall be assisted at the examination by competent persons.

APPOINTMENT OF INSPECTORS, AND ASSISTANTS.

- 3.** The Mayor of each of the said Cities of Quebec, Montreal, Toronto, or Kingston, respectively, and the Mayor or Chief Municipal Officer of any other such place as aforesaid shall, from time to time, by an instrument under his hand and the seal of the Corporation, nominate and appoint an Inspector of Beef and Pork for the City or other place of which he is Mayor or Chief Municipal Officer; But no person shall be appointed as such Inspector who has not, previously to his appointment, undergone an Examination before the Board of Examiners, for the place for which he is to be appointed, as to fitness, character and capacity in the manner herein provided; nor shall any person be so appointed as Inspector of Beef and Pork, unless recommended as such by the Board of Examiners, or a majority of them, pursuant to such examination; nor shall an Inspector be appointed in any place in which there shall be a Board of Trade, except on the requisition of such Board, with which the Mayor or Chief Municipal Officer shall be bound to comply. *Ibid*, s. 3--part.
- 4.** Before any Inspector shall act as such, he shall furnish two good and sufficient sureties, jointly and severally with himself, for the due performance of the duties of his office, in the sum of five hundred pounds, if such Inspector be appointed for the City of Quebec or for the City of Montreal, and in the sum of two hundred and fifty pounds, if such Inspector be appointed for the City of Toronto, or for the City of Kingston, or for any other place for which an Inspector may be appointed; and such sureties shall be subject to approval by the Mayor, or other Chief Municipal Authority by whom such Inspector shall have been appointed, and a Bond shall be executed to Her Majesty, Her Heirs and Successors, in the form used with regard to the sureties of persons appointed to offices of trust in this Province; and such Bond shall avail to the Crown and to all persons aggrieved by any breach of the conditions thereof. *Ibid*, s. 3--part.
- 5.** The Bond so given by such Inspector and his sureties, shall be made and kept at the office of the Clerk of the Corporation of the City or place for which such Inspector is appointed; and every person shall be entitled to have communication and copy of any such Bond at such Clerk's office upon payment of one shilling for each communication, and of two shillings and six pence for each copy. *Ibid*, s. 4.
- 6.** Every Inspector of Beef and Pork shall, before he acts as such, take and subscribe an oath before the Mayor, or Chief Municipal Officer of the place for which he shall be appointed, who shall administer the same in the words following:

" I,

1 " I, A. B. do solemnly swear that I will faithfully, truly and Oath
 2 " impartially, to the best of my judgment, skill and understand-
 3 " ing, execute and perform the Office of an Inspector of Beef and
 4 " Pork, and that I will not, directly or indirectly, by myself or by
 5 " any other person or persons whomsoever, trade or deal in
 6 " Beef or Pork of any description, otherwise than for the use
 7 " and consumption of my own family, during the time I shall
 8 " continue such Inspector; and that I will not, directly or indi-
 9 " rectly, brand or suffer to be branded any cask or half cask of
 10 " Beef or Pork but such as shall be sound and good and of the
 11 " quality designated by such brand, and with regard to which
 12 " all the other requirements of the law have been complied
 13 " with, to the best of my knowledge. So help me God."

14 Which oath shall be recorded in the Office of the Clerk of the Oath, how re-
 15 Corporation of the City, or place where the same shall be taken; corded, &c.
 16 and for recording such oath, and for a certificate thereof,
 17 the Clerk shall be entitled to the sum of two shillings and six
 18 pence, and no more, and shall give communication of the ori-
 19 ginal to any person applying for the same, on payment of one
 20 shilling for each such communication, and two shillings and
 21 six pence for each Copy. *Ibid*, s. 6.

22 7. The Inspector of Beef and Pork for the City of Quebec, Inspectors in
 23 and the Inspector for the City of Montreal, shall each appoint Quebec and
 24 one or as many more Assistants as the Board of Trade of the Montreal to
 25 City for which he is appointed may from time to time direct, employ assis-
 26 for the acts of which Assistants he shall be responsible; and he tants if re-
 27 shall increase the number of such Assistants from time to time, quired.
 28 on a requisition in writing from the Board of Trade, and may Assistants to
 29 diminish the same with the permission of the said Board; but be examined;
 30 each such Assistant must, before his appointment has been approved by the Board of Examiners and skilful persons sitting
 31 with them, as provided with regard to Inspectors, and before en- And to give
 32 tering upon the duties of his Office, shall furnish two good and security;
 33 sufficient sureties to be bound jointly and severally with himself to Her Majesty, in the sum of two hundred and fifty pounds,
 34 for the due performance of his duties, by a Bond to be made, And to take
 35 and kept as provided with regard to the Bonds given by an oath.
 36 Inspectors; and shall take and subscribe the following Oath,
 37 before the Mayor of the City for which he shall be appointed,
 38 who shall administer the same:

39 " I, A. B. do swear that I will diligently, faithfully and im- Oath.
 40 " partially execute the Office of Assistant to the Inspector of Beef
 41 " and Pork for _____, and that I will not, directly or in-
 42 " directly, personally or by means of any person or persons in
 43 " my behalf, receive any fee, reward or gratuity whatever, by
 44 " reason of my Office of Assistant to the said Inspector (except
 45 " my salary from the said Inspector,) and that I will not direct-
 46 " ly nor indirectly, trade in the articles of Beef or Pork, or be,
 47 " in any manner, concerned in the purchase or sale of Beef and
 48 " Pork,

"Pork, except so far as may be necessary for use of myself and family. So help me God."

Bond to be in duplicate. And such bond shall be in duplicate, and one part thereof shall be delivered to the Inspector, and the other part thereof, as also the said Oath, shall remain in the office of the Corporation of the City in which it is taken, for the same purposes, and are subject to the same regulations as to communication and copy, as are provided with regard to the Bond and Oath of the Inspector. *Ibid*, s. 8.

Where oath and bond shall be kept.

Assistants to hold office at the pleasure of the Inspector, &c. 8. The said Assistants shall respectively be paid by, and shall hold their offices at the pleasure of the Inspector, and no such Inspector shall allow any person to act for him about the duties of his office, excepting only his sworn assistant or assistants appointed as aforesaid. *Ibid*, s. 9.

MODE OF INSPECTION.

Certain duties of Inspectors when called upon to inspect beef and pork. 9. The Inspectors and Assistant Inspectors so appointed, shall respectively cut up, salt, pack and cure, or if already packed, shall unpack and examine throughout, adding salt, if necessary, and coopering up the same according to the requirements of this Chapter, every barrel or half barrel, tierce or half tierce of Beef and Pork submitted to them for Inspection; and such Inspection may be made either at the store, shop or warehouse of such Inspector, or at some store within the limits of the City or Place for which he is appointed, at the option of the owner or possessor of such Beef or Pork submitting it for Inspection; and every Inspector shall provide in some convenient position in the place for which he is appointed, a proper store or place for the reception and inspection of Beef and Pork. *Ibid*, s. 10.

Inspector to have brands—and to observe the following rules: 10. Each Inspector and Assistant Inspector shall provide and have a sufficient number of iron or other metal brands for his use, and in inspecting Beef or Pork shall observe the following rules:

How he shall brand. 1. He shall brand immediately after inspection on each and every barrel or half barrel, tierce or half tierce of Beef or Pork, the words "Quebec," "Montreal," "Toronto" or "Kingston," or the name of the place for which he is appointed, as the case may be, and the initial of the Christian name, and the surname at full length of the Inspector, with the quality as hereinafter directed;

Soft or still fed beef or pork. 2. Every barrel or half barrel, tierce or half tierce of Pork or Beef, which may on inspection be found to be soft or still fed, although it may be in all other respects fat and of good quality, shall be branded with the word "Soft" in letters as large as those upon the rest of the brand, in addition to the brand designating the quality;

3. In all cases where Beef and Pork is found to be of unsound and unmerchantable quality, from other causes than those
aforesaid, he shall brand the same with the word "Rejected"
at full length and in plain legible characters ; Rejected.
- 5 4. In all cases where the Beef or Pork appears inferior to the
mark of the packer or of any former Inspection, the Inspector, or
Assistant Inspector, shall erase and correct the same ; Erroneous
mark to be
erased and
corrected.
- 10 5. He shall also brand on each barrel or half barrel, tierce or
half tierce of Beef or Pork inspected by him, the month and year
in which it is inspected, with the net weight and quality of the
Beef and Pork therein ; Date of in-
spection to be
marked.
- 15 6. For such inspection and branding, the Inspector shall be
entitled to receive of and from the person submitting the same
for inspection, for each and every barrel and half barrel, tierce
or half tierce of Beef and Pork so inspected, salted, packed,
pickled and branded, one shilling for each barrel, seven pence
each tierce and eleven pence for each half tierce, exclusive of
each tierce and eleven pence for each half tierce, exclusive of
cooperage and repairs, the charge for which said cooperage and
20 repairs shall not exceed six pence per barrel or half barrel,
tierce or half tierce : In consideration of which charges, all
barrels or half barrels, tierces or half tierces shall be delivered
in good shipping order ; Fees to In-
spector.
- 25 7. Such fee or allowance shall be paid by the owner or pos-
sessor of such Beef or Pork before it shall be removed ; By whom
paid.
- 30 8. As soon as any Beef or Pork is inspected, a bill of In-
spection shall be furnished by the Inspector or Assistant In-
spector without fee or reward, specifying neatly and legibly the
quantity of Beef or Pork so delivered to him, and the owner's
mark or marks thereon, and the quantities and qualities ascer-
tained by inspection, and the charges thereof ; Bill of inspec-
tion.
- 35 9. If any Inspector or Assistant Inspector knowingly and
wilfully gives an untrue or incorrect certificate of the quantity
or quality of any Beef or Pork by him inspected, or gives such
certificate without a personal examination and inspection of
such Beef or Pork, he shall thereby incur a penalty of twenty
pounds, for each offence, and be dismissed from his office and
incapable of ever after following the same ; Penalty for
giving false
bills of inspec-
tion.
- 40 10. No Beef or Pork inspected and branded in one month or
year and re-inspected and repacked in another, shall bear any
other brand of the year and month than that originally affixed to
it,—except that on the vessel containing any Beef and Pork re-
inspected, the date of such re-inspection, with the other particu-
lars required in case of inspection may be branded ; but no
45 preceding inspection brand or any part thereof shall be effaced ;
and As to beef and
pork re-ins-
pected : form-
er inspection
marks not to
be effaced.

and every re-inspection which shall be made without complying with the requirements of this section, shall be held to be an inspection made contrary to this Chapter, and the person making it shall thereby incur the penalty aforesaid. *Ibid*, s. 11, as amended by 13, 14 V. c. 30, s. 2. 5

Mode of branding.

11. All the said brand marks shall be branded on one head of the barrel or half barrel, tierce or half tierce, and all such brand marks shall be large and legible, and all such marks shall be branded within a space not exceeding fourteen inches long by eight inches broad on each of the casks inspected, under a penalty of twenty pounds for each barrel or half barrel, tierce or half tierce inspected and not branded, or otherwise branded than is required by this Chapter; 10

Effect of agreement.

12. In all cases where any Beef or Pork is sold subject to inspection, the person applying to the Inspector to have the same inspected, shall be entitled to reimbursement of the price of inspection from the vendor, if such applicant be not himself the vendor, or unless an express stipulation to the contrary was made at the time of sale, or of the agreement to submit the Beef or Pork to inspection; and any such agreement shall imply a warranty that all the requirements of this Chapter have been complied with, as well with regard to Beef or Pork to which it relates, as to the vessels in which they are contained, and the marks upon such vessels. *Ibid*, ss. 11, 12, as amended by 13, 14 V. c. 30, s. 2. 15

When beef and pork is sold subject to inspection, &c.

QUALITIES OF BEEF AND PORK, AND HOW TO BE MARKED AND PACKED.

How beef subject to inspection shall be classed.

11. All Beef which the Inspector finds on examination to have been killed at a proper age and to be fat and merchantable, shall be cut into pieces as nearly square as may be, not more than eight nor less than four pounds weight, and shall be sorted and divided for packing and re-packing in barrels, half barrels, tierces and half tierces into four different sorts, to be denominated respectively, "Mess," "Prime Mess," "Prime" and "Cargo Beef;" 20

Mess Beef.

Mess Beef shall consist of the choicest pieces only, that is to say: Briskets, the thick of the Flank, Ribs, Rumps and Sirloins of Oxen, Cows or Steers, well fattened; and each barrel or half barrel, tierce or half tierce containing Beef of this description, shall be branded on one of the heads with the words "Mess Beef;" 25

Prime Mess Beef.

Prime Mess Beef, shall consist of pieces of meat of the second class, from good fat cattle, without shanks or necks; and barrels and half barrels, tierces and half tierces containing Beef of this description, shall be branded on one of the heads thereof, with the words "Prime Mess Beef;" 30

Prime

Prime Beef shall consist of choice pieces of fat cattle, amongst Prime Beef.
 which there shall not be more than the coarse pieces of one side
 of a carcass, the houghs and neck being cut off above the first
 joint ; and barrels and half barrels, tierces and half tierces
 5 containing Beef of this description, shall be branded on one of
 the heads thereof with the words "*Prime Beef* ;"

Cargo Beef shall consist of the meat of fat cattle of all des- Cargo Beef.
 criptions of three years old and upwards, with not more than
 half a neck and three shanks (with the houghs cut off above
 10 the first joint,) and the meat otherwise merchantable ; and bar-
 rels and half barrels, tierces and half tierces containing such
 Beef shall be branded on one of the heads "*Cargo Beef* ;"

Each barrel in which Beef of any one of the foregoing des- Weight of
 criptions shall be packed or re-packed, shall contain two meat in each
 15 hundred pounds of Beef, and each half barrel one hundred
 pounds, each tierce three hundred pounds ; and each half tierce
 one hundred and fifty pounds. *Ibid*, s. 21.

12. All Pork which the Inspector finds on examination to How pork sub-
 be fat and merchantable, shall be cut in pieces as nearly square ject to inspec-
 20 as may be, and not more than six nor less than four pounds tion shall be
 weight, and shall be sorted and divided into four different sorts, classed.
 to be denominated respectively : "*Mess*," "*Prime Mess*,"
 "*Prime*," and "*Cargo*," Pork :

Mess Pork shall consist of the rib pieces only, of good hogs Mess Pork.
 25 not weighing less than two hundred pounds each ; and barrels
 and half barrels, tierces and half tierces containing such Pork,
 shall be branded on one of the heads, "*Mess Pork*" ;

Prime Mess Pork shall consist of the pieces of good fat hogs Prime Mess
 30 not weighing less than one hundred and ninety pounds each, Pork.
 the barrel to contain the coarse pieces of one hog only, that is to
 say, two half heads, (not exceeding together sixteen pounds in
 weight) with two shoulders and two hams and the remaining
 pieces of a hog,—the tierce to contain the relative proportion of
 35 heads, shoulders and hams, and the remaining pieces of one
 hog and a half hog, but when the pork under inspection is from
 hogs exceeding two hundred pounds each in weight, the Ins-
 pector shall make "*Mess Pork*" of such rib and side or flank
 pieces thereof, cut in the manner and of the weight above pres-
 40 cribed as shall in his judgment be equal in quality on the ave-
 rage to Mess Pork, as above defined, and barrels and half barrels,
 tierces and half tierces, containing Pork of this description shall
 be branded on one of the heads "*Prime Mess Pork* ;" See 20
 V. c. 13, s. 2.

45 Prime Pork shall consist of the pieces of good fat hogs, not Prime Pork.
 weighing less than one hundred and fifty pounds each, the bar-
 rel to contain the coarse pieces of one hog and a half only,—
 that

that is to say,—three half heads, (not exceeding together twenty-four pounds in weight,) three hams and three shoulders, and the remaining pieces of a hog, and a half hog,—the tierce to contain the relative proportions of heads, shoulders and hams, and the remaining pieces of two hogs and a quarter of a hog ;—And each barrel or half barrel, tierce of half tierce containing Pork of this description shall be branded on one of the heads “*Prime Pork* ;”

Cargo Pork. Cargo Pork shall consist of the pieces of fat hogs, weighing not less than one hundred pounds each ;—the barrel to contain the coarse pieces of not more than two hogs, that is to say : four half heads, (not exceeding together in weight thirty pounds,) four shoulders and four hams, and the remaining pieces of two hogs, and to be otherwise merchantable Pork ;—the tierce to contain the relative proportions of heads, shoulders and hams and the remaining pieces of three hogs ; and the barrels and half barrels, tierces and half tierces containing Pork of this description shall be branded on one of the heads, “*Cargo Pork* ;”

Certain parts to be left out in all cases. But in all cases the following parts shall be cut off, and not packed, namely,—the ears close to the head,—the snout above the tusks,—the legs above the knee joint,—the tail shall also be cut off, and the brains, tongue and bloody grizzle taken out ;

Weight of pork in each barrel. Each barrel in which Pork of any of the foregoing descriptions may be packed or re-packed, shall contain two hundred pounds, and each tierce three hundred pounds,—and each half barrel or half tierce one half those quantities respectively,—of the several kinds and qualities of Pork aforeiaid, and shall be branded accordingly. *Ibid*, s. 22, as amended by 20 V. c. 13, s. 1.

How rejected provisions shall be marked. **13.** On the head of every barrel or half barrel, tierce or half tierce containing any thin, rusty, measley, tainted, sour or unmerchantable Pork, or unmerchantable or spoiled Beef, branded “*Rejected*” in consequence of its being so, the true character both as to quality and condition of such Pork or Beef shall also be marked with black paint ; and each Inspector shall certify, whenever required, the quality of any Beef or Pork by him inspected, the state and condition thereof, and the packages containing the same, specifying the extent of damage appearing on inspection, and the apparent cause thereof, whether exposure, injury in transportation, or originally defective packing or putting up, and also specifying the brands, or other marks, upon the casks or packages inspected, and the name of the owner or possessor thereof. *Ibid*, s. 18.

What salt, &c., shall be used in packing beef and pork. **14.** The salt used in packing and re-packing Beef and Pork inspected and branded under this Chapter, shall be clean St. Ubes, Isle of May, Lisbon, Turks Island, or other coarse grained salt of equal quality : and every barrel of fresh Beef or Pork shall

shall be well salted with seventy-five pounds, and every tierce with one hundred and twelve pounds, of good salt, as aforesaid, exclusive of a sufficient quantity of pickle as strong as salt will make it;—and to each barrel of Beef or Pork shall be added 5 four ounces, and to each tierce six ounces, of saltpetre; and each half barrel, or half tierce of fresh Beef or fresh Pork shall be salted with half the quantity of salt and saltpetre above mentioned, with a sufficiency of pickle; and in all cases of packing and re-packing Beef or Pork to be inspected and branded 10 under the authority of this Chapter, the Inspector may use salt, saltpetre and pickle in his discretion. *Ibid*, s. 20.

15 15. Every barrel and half barrel, tierce or half tierce containing Beef or Pork inspected in this Province, shall be made of good seasoned white oak staves, and the heads shall not be less than three quarters of an inch thick; and each stave on each edge at the bilge shall not be less than half an inch thick when finished for barrels, nor less than three quarters of an inch thick when finished for tierces, and the wood of half barrels or of half tierces shall be in the same proportion to their size, and shall in all cases be free from every defect:

Materials, size and construction of barrels &c., used for packing beef or pork.

2. Every barrel and half barrel, tierce or half tierce, shall be hooped and covered two-thirds of its length with good oak, ash or hickory hoops, leaving one-third in the centre uncovered: and each barrel or half barrel, tierce or half tierce, shall be 25 bored in the centre of the bilge with a bit of not less in diameter than one inch, for the reception of pickle;

Hoops.

3. Each barrel shall not be less than twenty-seven inches, nor more than twenty-eight inches and a half long; and the contents of each barrel in which Beef shall be packed or re-packed shall not be less than twenty-eight gallons, nor 30 more than twenty-nine gallons, wine measure, and the contents of each barrel in which Pork shall be packed or re-packed shall not be less than thirty gallons nor exceed thirty-one gallons, wine measure;

Size of barrels.

35 4. Each tierce shall not be less than thirty inches, nor more than thirty-one inches long; and the contents of each tierce in which Beef shall be packed or re-packed, shall not be less than forty-four gallons, nor exceed forty-five gallons, wine measure; and the contents of each tierce in which 40 Pork shall be packed or re-packed shall not be less than forty-five gallons, nor exceed forty-six gallons, wine measure;

Size of tierces.

5. Half barrels or half tierces in which Beef or Pork shall be packed and re-packed shall severally contain half the number of gallons above mentioned, and no more;

Half barrels and tierces.

45 6. And the Inspector shall examine carefully and ascertain the sufficiency of each barrel, and half barrel, tierce or half tierce, before

No others to be branded by Inspectors.

before branding the same, and shall brand none with regard to which the requirements of this Chapter have not been complied with. *Ibid*, s. 19.

Who shall furnish salt, barrels, &c., if needed.

16. Nothing in this Chapter shall prevent any Inspector of Beef and Pork, from furnishing salt, saltpetre or barrels, or half barrels, tierces or half tierces, if necessary, but it shall be optional with the proprietor or possessor of such Beef or Pork, to furnish such salt, saltpetre, barrels or half barrels, tierces or half tierces himself, if he sees fit, whether the same be for new packing or to replace unsound old packages, or bad salt, and whether the same be at the stores of the Inspector or of such proprietor or possessor. *Ibid*, s. 15.

Disputes between any inspector and the owner of provisions inspected, how to be decided.

17. If any dispute arises between any Inspector or Assistant Inspector and the owner or possessor of any Beef or Pork by him inspected, with regard to the quality and condition thereof, or relating in any respect to the same, then upon application, by either of the parties in difference, to any Justice of the Peace for the place in which such Inspector or Assistant Inspector acts, such Justice of the Peace shall issue a summons to three persons of skill and integrity, one to be named by the Inspector or Assistant Inspector, another by the owner or possessor of the Beef or Pork, and the third by such Justice of the Peace, (who failing the attendance of either of the parties in difference shall name for him) requiring such three persons forthwith to examine such Beef and Pork, and report their opinion of the quality and condition thereof under oath (which oath the Justice of the Peace shall administer,) and their determination, or that of a majority of them, made in writing shall be final and conclusive, whether approving or disapproving the judgment of the Inspector or Assistant Inspector, who shall immediately conform thereto, and brand each and every barrel or half barrel, tierce or half tierce of the qualities or condition directed by the determination aforesaid; And if the opinion of the Inspector or Assistant Inspector be thereby confirmed, the reasonable cost and charges of re-examination (to be ascertained by the said Justice of the Peace,) shall be paid by the said owner or possessor of the Beef or Pork, if otherwise, by the Inspector or Assistant Inspector. *Ibid*, s. 16.

OFFENCES, PENALTIES AND MICELLANEOUS PROVISIONS.

Penalty on Inspectors refusing to act when called upon at proper times.

18. If any Inspector, or Assistant Inspector, refuses or neglects, on application to him made, personally or by writing, left at his dwelling house, store, office, or warehouse, on any lawful day between sun-rise and sun-set, by any owner or possessor of Beef or Pork such Inspector or Assistant Inspector (not being at the time of such application employed in inspecting Beef or Pork elsewhere) forthwith, or within two hours thereafter, to proceed to such inspection, he shall, for every such

such neglect or refusal, forfeit and pay to the person so applying, five pounds, over and above all the damages occasioned by such refusal or neglect, to the party complaining, recoverable in a summary way before any one Justice of the Peace, on the oath of one credible witness other than such complainant. *Ibid*, s. 17.

19. No Inspector shall suffer any Beef or Pork, if left in his charge after it has been inspected, to be exposed to the heat of the sun or inclemency of the weather longer than six days, under the penalty of ten pounds for every such offence; and every Inspector who neglects to provide a suitable store in a convenient situation, shall incur a penalty of twenty shillings per day, for every day he has neglected to provide himself with such store after his appointment as Inspector. *Ibid*, s. 14.

Provisions in charge of an Inspector not to be left exposed.

20. No Inspector of Beef and Pork shall, when he inspects any Beef or Pork, at the store hereinbefore required to be kept by him for the purpose, charge any storage thereon, unless the same shall have been left in his store more than ten days after he has delivered to the owner or possessor thereof a notice of its having been inspected, or an inspection bill thereof. *Ibid*, s. 13, as amended by 13, 14 V. c. 30, s. 3.

When the Inspector may not charge storage.

21. No Inspector or Assistant Inspector of Beef and Pork shall directly or indirectly trade or deal in Beef or Pork, or be concerned in such trade, whether by buying, bartering, or exchanging any live or dead cattle or hogs, with a view to packing the same or get them packed, or by buying, bartering or exchanging Beef or Pork when packed, nor shall he purchase Beef or Pork of any description, otherwise than for the use and consumption of his family, under a penalty of fifty pounds for each and every such offence, and on pain of being removed from office. *Ibid*, s. 23.

Inspectors or Assistants not to deal in beef or pork.

22. No person other than an Inspector or Assistant Inspector under this Chapter, and having previously complied with all the requirements thereof, or the actual owner of the Beef or Pork inspected, shall inspect any Beef or Pork, or brand or mark any barrel or half barrel, tierce or half tierce, or cask or vessel of any kind, containing such Beef or Pork, or give any Certificate of Inspection, under a penalty of ten pounds for each barrel, half barrel, tierce or half tierce, cask or vessel of Beef or Pork so inspected or branded, or with regard to which such Certificate is given, to be recovered and applied in the manner provided by this chapter with regard to penalties hereby imposed:

None but Inspectors or their assistants or owners shall inspect or brand beef or pork.

Penalty.

And if any owner of any Beef or Pork brands any such vessel as aforesaid containing Beef or Pork, without affixing to his surname and the initial of his Christian name, the date at which the same was branded, and the word "owner" or "owners,"

If the owner brands without affixing his initials, &c.

“ owners,” he shall be held to have inspected and branded the same contrary to the provisions of this Act, and shall incur the penalty aforesaid. 13, 14 V. c. 30, s. 1.

Penalty on persons fraudulently erasing or altering brands or marks, &c.

23. If any packer of Beef or Pork, or any other person, with a fraudulent intention, effaces or causes to be effaced or obliterated from any barrel or half barrel, tierce or half tierce of Beef and Pork having undergone inspection, all or any of the Inspector's brand marks; or counterfeits any such mark or marks, or impresses or brands the same on any barrel or half barrel, tierce or half tierce of Pork or Beef, or empty or partially empties any barrel or half barrel, tierce or half tierce of Pork or Beef branded after inspection, in order to put into the same other Beef or Pork, or uses for the purpose of packing any Beef or Pork, old barrels or half barrels, tierces or half tierces without destroying the old brand marks before offering the same for sale or exportation, or, not being an Inspector or Assistant Inspector, brands any Pork or Beef with the Inspector's brand marks, such person so offending shall, for every such offence, incur a penalty of fifty pounds;—And any Inspector or Assistant Inspector who inspects or brands any Beef or Pork, out of the local limits for which he is appointed, or hires out his brands to any person whomsoever, or connives at or is privy to any fraudulent evasion of inspection of Beef and Pork by others, shall for every such offence, incur a penalty of fifty pounds. *Ibid*, s. 24.

Inspection not compulsory; but barrels, &c., exported must have certain marks, and dimensions.

24. Nothing in this Chapter shall prevent any person from packing for exportation or from exporting any Beef or Pork without inspection, provided such Beef or Pork be packed in tierces or half tierces, barrels or half barrels of the dimensions hereinbefore prescribed for such vessels, respectively, and be marked with black paint or branded on one end thereof with the name and address of the packer, the date and place of packing, the weight and the quality of the Beef or Pork contained in each package:

2. Nor shall any thing in this Chapter prevent any person from packing for exportation or from exporting without inspection any Rounds of Beef, Rounds and Briskets of Beef, the meat of young pigs called Pig Pork, the tongues of neat cattle, the tongues of pigs, hams of pigs or pig's cheeks, or any smoked or dried meat of any description contained in tubs, casks, or barrels or other packages of any kind, provided each package be marked in the manner above mentioned;

3. But every person who exports any meat of the kind last mentioned, not so marked as aforesaid, or Beef or Pork of any other kind not so marked or not packed in barrels or half barrels, tierces or half tierces of the dimensions hereinbefore prescribed, shall thereby incur a penalty of twenty shillings, for each and every barrel or half barrel, tierce or half tierce, tub, cask

cask or other package with regard to which the provisions of this section are contravened. *Ibid*, s. 25.

25. All penalties and forfeitures imposed by this chapter, not exceeding ten pounds sterling, shall (unless it be otherwise herein provided) be recoverable, with costs, in a summary way, before any two Justices of the Peace, and may in default of payment, be levied by warrant of distress, to be issued by such Justices, against the goods and chattels of the offender, and when the same exceed the sum of ten pounds sterling, they shall be sued for and recovered by Civil Action before any Court having jurisdiction to the amount, and levied by execution as in the case of debt :---And one moiety of all such fines and forfeitures (except such as herein directed to be otherwise applied) when recovered, shall belong to the Corporation of the City or place where the suit or prosecution is brought, and shall be forthwith paid to the Treasurer of such City or place, and the other moiety shall belong to the person suing for the same, unless the suit be brought by any Officer of such Corporation, in which case the whole shall belong to the Corporation. *Ibid*, s. 26.

Penalties how recovered and applied.

26. Any action or suit against any person for any thing done in pursuance of this chapter, or contrary to its provisions, shall be commenced within six calendar months next after the matter or thing done or omitted to be done, and not afterwards; and the defendant therein may plead the general issue and give this chapter and the special matter in evidence, at any trial therein, and that the same was done under this chapter; and if it appears so to have been done, then the judgment shall be for the defendant, and if the plaintiff is non-suited or discontinues his action after the defendant has appeared, or if judgment is given against the plaintiff, the defendant shall recover treble costs and have the like remedy for the same as defendants have in other cases. *Ibid*, s. 27.

Limitation of actions for things done under this chapter.

Treble costs if plaintiff is non-suit, &c.

CAP. XLIX.

An Act respecting the Inspection of Pot and Pearl Ashes.

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

BOARDS OF EXAMINERS OF INSPECTORS.

1. The Board of Trade in each of the Cities of Quebec, Montreal, Toronto and Kingston, and the Municipal Authorities in other places where Inspectors may be required for the purposes of this Act, may appoint a Board of Examiners of applicants for the office of Inspector of Pot and Pearl Ashes, and from time to time remove such Examiners and appoint others in their stead ; and such Board of Examiners shall, in each of the Cities of Quebec and Montreal, consist of five, and in other places, of three, fit, proper and skilful persons, resident in the place or in the immediate vicinity of the place for which they are respectively to act ; and each Examiner shall, before acting as such, take and subscribe the following oath before any Justice of the Peace for the place in which such Examiner resides, and such Justice shall administer the same :

Oath. " I, A. B., do swear that I will not, directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever, by reason of any function of my office of Examiner of applicants for the office of Inspector of Pot and Pearl Ashes, and that I will therein well and truly, in all things, act without partiality, favor or affection, and to the best of my knowledge and understanding. So help me God."

Custody of the oath. Which oath shall remain in the custody of the Justice administering it. 18 V. c. 11, s. 4.

2. The Board of Examiners, to be constituted as aforesaid, shall, before proceeding to the examination of any person desirous of being appointed an Inspector of Pot and Pearl Ashes, require the attendance of two or more persons of great experience and practice in the manufacture or inspection of Pot and Pearl Ashes ; and the said Board, in their discretion, may permit any other persons to be also present at such examination ; and every person so required or permitted to attend, may, in the presence of the said Board, propose questions to the person then under examination, touching his knowledge as to the properties and qualities of Pot and Pearl Ashes. *Ibid*, s. 7.

Board of Trade in certain cities and municipal authorities elsewhere, to appoint Board of Examiners.

Oath of office to be taken by each Examiner.

Examiners may associate skilful persons with them on examinations, &c.

APPOINTMENT

APPOINTMENT OF INSPECTORS AND ASSISTANTS.

3. The Mayor of each of the said Cities of Quebec, Montreal, Toronto or Kingston, and the Chief Municipal Officer of any other place, as aforesaid, shall, from time to time, by an instrument under his hand and the seal of the Corporation, nominate and appoint an Inspector, or a Joint Inspector of Pot and Pearl Ashes for such City and other place as aforesaid, and may, from time to time, on a representation to the said Mayor, or Chief Municipal Officer, by the Council of the Board of Trade of such City or place, (but not otherwise,) remove any such Inspector, and appoint another in his stead; But no person shall be appointed as such Inspector, who has not, previously to his appointment, undergone an examination before the Board of Examiners for the same place, as to fitness, character and capacity, in the manner hereinafter provided; nor shall any person be so appointed an Inspector of Pot and Pearl Ashes unless recommended as such by the Board of Examiners, or a majority of them, pursuant to such an examination; nor shall an Inspector be appointed in any place in which there shall be a Board of Trade, except on the requisition of such Board, with which the Mayor or Chief Municipal Officer shall be bound to comply. *Ibid*, s. 5—part.

Mayor or Chief Municipal Officer to appoint Inspectors.

None but persons having undergone examination to be appointed, &c.

On what requisition.

4. Before any Inspector shall act as such, he shall furnish two good and sufficient Sureties, who shall be bound with himself, for the due performance of the duties of his office, in the sum of five hundred pounds, each, if such Inspector be appointed for Montreal, and in the sum of two hundred and fifty pounds currency each, if such Inspector be appointed for the City of Quebec, Toronto or Kingston, or for any other place for which an Inspector may be appointed; and such Sureties shall be submitted to approval by the Mayor or other Chief Municipal authority by whom such Inspector is appointed, and a Bond shall be executed to Her Majesty, in the form used with regard to the Sureties of persons appointed to offices of trust in this Province, and such Bond shall avail to the Crown and to all persons aggrieved by any breach of the conditions thereof. *Ibid*, s. 5—part.

Inspector to give security.

Approval of such securities.

Bond.

5. The said Bond shall be made and kept at the office of the Clerk of the Corporation of the City or place for which such Inspector is appointed; and every person shall be entitled to have communication and copy of any such Bond at such Clerk's office, upon payment of one shilling for each communication, and of two shillings and six pence for each copy. *Ibid*, s. 6.

Bond where to be kept.

To be open to public inspection.

6. Every Inspector of Pot and Pearl Ashes, shall, before he acts as such, take and subscribe an oath before the Mayor or Chief Municipal Officer of the place for which he is appointed, who shall administer the same in the words following:

Person appointed Inspector to take an oath of office.

“ I,

- The oath. "I, A. B., do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding, execute and perform the office of an Inspector of Pot and Pearl Ashes; and that I will not directly or indirectly, by myself or by any other person or persons whomsoever, manufacture, buy or sell any Pot or Pearl Ashes, on my account, or upon the account of any other person or persons whomsoever, while I continue such Inspector. So help me God."
- Recording oath. Which oath shall be recorded in the Office of the Clerk of the Corporation of the City or place where the same shall be taken; and for recording such oath, and for a certificate thereof, the Clerk shall be entitled to the sum of two shillings and six pence, and no more; and shall give communication or copy of the original to any person applying for the same, on payment of one shilling for each communication, and two shillings and six pence for each copy. *Ibid*, s. 8.
- Fees. 7. The Inspector of Pot and Pearl Ashes for the City of Montreal and the Inspector for the City of Quebec, may each appoint such number of Assistants and Clerks as he shall, from time to time, be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of which Assistants and Clerks he shall be responsible, and he shall increase the number of such Assistants and Clerks, from time to time, on a requisition in writing from the Board of Trade, and may diminish the same with the permission of the said Board; and each such Assistant must before his appointments have been approved by the said Board of Examiners, and skilful persons sitting with them, as provided for the examination of Inspectors, and shall, before entering upon the duties of his office, furnish two good and sufficient sureties to be bound jointly and severally with themselves to Her Majesty, in the sum of five hundred pounds currency, if for the City of Montreal, and in the sum of one hundred pounds, if for the City of Quebec, for the due performance of his duties, by a Bond to be made, and kept as provided with regard to the Bonds given by Inspectors; and shall take and subscribe the following Oath, before the Mayor of the City in which he shall be appointed, who shall administer the same:
- Inspectors for Montreal and Quebec to appoint Assistants, Clerks, &c. 7. The Inspector of Pot and Pearl Ashes for the City of Montreal and the Inspector for the City of Quebec, may each appoint such number of Assistants and Clerks as he shall, from time to time, be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of which Assistants and Clerks he shall be responsible, and he shall increase the number of such Assistants and Clerks, from time to time, on a requisition in writing from the Board of Trade, and may diminish the same with the permission of the said Board; and each such Assistant must before his appointments have been approved by the said Board of Examiners, and skilful persons sitting with them, as provided for the examination of Inspectors, and shall, before entering upon the duties of his office, furnish two good and sufficient sureties to be bound jointly and severally with themselves to Her Majesty, in the sum of five hundred pounds currency, if for the City of Montreal, and in the sum of one hundred pounds, if for the City of Quebec, for the due performance of his duties, by a Bond to be made, and kept as provided with regard to the Bonds given by Inspectors; and shall take and subscribe the following Oath, before the Mayor of the City in which he shall be appointed, who shall administer the same:
- Security to be given by Assistants. 7. The Inspector of Pot and Pearl Ashes for the City of Montreal and the Inspector for the City of Quebec, may each appoint such number of Assistants and Clerks as he shall, from time to time, be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of which Assistants and Clerks he shall be responsible, and he shall increase the number of such Assistants and Clerks, from time to time, on a requisition in writing from the Board of Trade, and may diminish the same with the permission of the said Board; and each such Assistant must before his appointments have been approved by the said Board of Examiners, and skilful persons sitting with them, as provided for the examination of Inspectors, and shall, before entering upon the duties of his office, furnish two good and sufficient sureties to be bound jointly and severally with themselves to Her Majesty, in the sum of five hundred pounds currency, if for the City of Montreal, and in the sum of one hundred pounds, if for the City of Quebec, for the due performance of his duties, by a Bond to be made, and kept as provided with regard to the Bonds given by Inspectors; and shall take and subscribe the following Oath, before the Mayor of the City in which he shall be appointed, who shall administer the same:
- They shall take an oath of office. 7. The Inspector of Pot and Pearl Ashes for the City of Montreal and the Inspector for the City of Quebec, may each appoint such number of Assistants and Clerks as he shall, from time to time, be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of which Assistants and Clerks he shall be responsible, and he shall increase the number of such Assistants and Clerks, from time to time, on a requisition in writing from the Board of Trade, and may diminish the same with the permission of the said Board; and each such Assistant must before his appointments have been approved by the said Board of Examiners, and skilful persons sitting with them, as provided for the examination of Inspectors, and shall, before entering upon the duties of his office, furnish two good and sufficient sureties to be bound jointly and severally with themselves to Her Majesty, in the sum of five hundred pounds currency, if for the City of Montreal, and in the sum of one hundred pounds, if for the City of Quebec, for the due performance of his duties, by a Bond to be made, and kept as provided with regard to the Bonds given by Inspectors; and shall take and subscribe the following Oath, before the Mayor of the City in which he shall be appointed, who shall administer the same:
- The oath. "I, A. B., do swear that I will diligently, faithfully and impartially execute the office as Assistant to the Inspector of Pot and Pearl Ashes for and that I will not directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever, by reason of my office of Assistant to the said Inspector (except my salary from the said Inspector), and that I will not, directly or indirectly, trade in the articles of Pot and Pearl Ashes, or be in any manner concerned in the purchase or sale of Pot and Pearl Ashes. So help me God."
- And

And such Bond shall be in duplicate, and one part thereof shall be delivered to the Inspector, and the other part thereof, as also the Oath, shall remain in the office of the Corporation of the City in which the same shall be taken, for the same purposes, and subject to the same regulations as to communication and copy as are provided with regard to the Bond and Oath of the Inspector. *Ibid*, s. 14.

Bond to be in duplicate, &c, where kept, &c.

8. The said Assistants shall respectively be paid by and shall hold their offices at the pleasure of the Inspector; and no such Inspector shall allow any person whomsoever to act for him about the duties of his office, excepting only his sworn Assistant or Assistants, appointed as aforesaid. *Ibid*, s. 15, and part of s. 5.

Assistants to hold office during pleasure.

9. Whenever a vacancy occurs in the office of Inspector of Pot and Pearl Ashes for the City of Montreal, by death, resignation, or removal of such Inspector, an Inspector of Pot and Pearl Ashes shall, by the Mayor of the said City, be appointed in his room, from among the Assistant Inspectors: Provided that no such Assistant Inspector shall be so appointed until he shall have undergone an examination before the Board of Examiners, and by them have been deemed competent to the duties required of such Inspector, and shall not enter upon the duties of his office until he shall have given the security and taken the oath of office required by this chapter and complied with the other requirements thereof: Provided further, that any person who, at the time the Act 18 V. c. 11, came into force, held the office of Assistant Inspector, shall be capable of being appointed as such Inspector without any such examination as aforesaid. *Ibid*, s. 16.

Future Inspectors to be appointed by Mayor.

Provision for examination.

Exception.

MODE OF INSPECTION, AND QUALITIES OF ASHES.

10. Every Inspector or Assistant Inspector, on proceeding to inspect any Pot or Pearl Ashes, shall either by emptying the whole of the Pot or Pearl Ashes out of the barrel, or by opening both ends of the barrel, and if necessary by scraping the barrel and cakes of Ashes, carefully examine, try and inspect and sort the same into three different sorts or qualities to be denominated *first sort*, *second sort* and *third sort*, determining the several sorts as follows:

Mode of inspecting, classifying, and marking ashes.

Qualities defined.

First sort Pot Ashes, shall contain seventy-five per cent. of pure Alkali, at the least;

Second sort Pot Ashes, shall contain sixty-five per cent. of pure Alkali, at the least;

Third sort Pot Ashes, shall contain fifty-five per cent. of pure Alkali, at the least;

First sort of Pearl Ashes, shall contain sixty-five per cent. of pure Alkali, at the least ;

Second sort Pearl Ashes, shall contain fifty-five per cent. of pure Alkali, at the least ;

Third sort of Pearl Ashes, shall contain forty-five per cent. of pure Alkali, at the least ;

Each quality shall be in all other respects, entitled to rank of the quality designated thereon ;

Packing.

2. The Inspector or Assistant Inspector shall re-pack the Ashes into good and sufficient barrels of the size and description hereinafter specified, to be properly coopered and nailed, and shall weigh each barrel, and mark on the branded head, with black, the weight thereof including tare, and the weight of the tare under the same ;

Branding.

3. He shall brand in plain letters and figures on each and every barrel by him inspected containing Ashes of the first quality, the words, *First sort*, of the second quality, the words, *Second sort*, and of the third quality, the words, *Third sort*, together with the words *Pot Ash*, *Pearl Ash*, as the case may be, with his own name and that of the place where the Ashes are inspected, and the year when such inspection is made ;

Crustings, &c.

4. He shall also collect the crustings or scrapings of the barrels and cakes of Pot and Pearl Ashes (if any) of each separate lot, and deduct the value of the same from the inspection charges to be paid by the proprietor of such lot, or deliver them to him ;

Unbrandable Ashes.

5. He shall mark the word "*unbrandable*" No. 1, (2, 3, 4 or 5,) according to its strength, on every barrel which he shall discover to contain Ashes so adulterated with stone, sand, lime, salt, or any other improper substance, as not to admit of their being classified as *first*, *second* or *third* sort ;

Weigh Notes.

6. He shall also make and deliver a separate Weigh Note or Bill of each quality of Ashes, whenever required so to do by the Owner thereof or his Agent. *Ibid*, s. 10.

Description of barrels in which only ashes shall be inspected.

11. No Pot or Pearl Ashes shall be inspected in barrels of any size or description other than the following : Pot Ashes, in barrels to be constructed of oak or white ash timber ; and Pearl Ashes, in barrels to be constructed of oak, white ash, black ash, or elm timber ;—the said timber to be of the best description and thoroughly seasoned, and the said barrels to be made perfectly tight, and to be well and completely hooped with, at least, fourteen sound oak, ash, hickory, blue beech or elm hoops each ; the said barrels shall not exceed thirty-two inches in length by twenty-two inches in diameter on either head, nor be less than thirty inches in length by twenty inches in diameter on either head, and the chime thereof shall not exceed one inch : and the Inspectors shall reject all barrels not constructed according to the foregoing directions, or which, in their opinion, are insufficient to resist the tear, wear and usage to which they are liable :
And

And from the gross weight of the barrel when filled up, the actual weight of such barrel, as tare, shall be deducted ; and every manufacturer of Ashes shall be bound to mark, in legible characters, on the end of each barrel, before the same is filled, the exact weight thereof. *Ibid*, s. 2.

12. Whenever any dispute arises between any Inspector or Assistant Inspector and the owner or possessor of any Pot or Pearl Ashes, with regard to the quality thereof, then upon application to any Justice of the Peace for the place in which such Inspector or his Assistant acts, the said Justice of the Peace shall issue a Summons to three persons of skill and integrity (one whereof to be named by the Inspector or Assistant Inspector, and another by the owner or possessor of the Pot or Pearl Ashes, and the third by the Justice of the Peace,) requiring the said three persons forthwith to examine and inspect such Pot or Pearl Ashes according to the provisions of this Act, and report their opinion of the quality and condition thereof under oath, (which oath the said Justice of the Peace shall administer,) and their determination, or that of a majority of them, shall be final and conclusive, whether approving or disapproving of the judgment of the Inspector or his Assistant, who shall immediately attend thereto, and brand every barrel of the quality directed by such determination, according to the provisions of this Act ; and if the opinion of the Inspector or Assistant Inspector be thereby confirmed, the reasonable costs and charges of re-examination, to be ascertained by the said Justice, shall be paid by the owner or possessor of the Pot or Pearl Ashes, if otherwise, by the Inspector *Ibid*, s. 20.

Mode of settling disputes as to quality of ashes.

Costs.

STORAGE OF ASHES.—FEES TO INSPECTORS,—RETURNS.

13. In any place where there is an Inspector of Ashes, except in the City of Montreal, each Inspector shall provide himself with suitable and convenient premises for the storage and inspection of Ashes, and shall keep all barrels of Ashes delivered to him for inspection, while in his possession, in some dry place safe from the injuries of the weather or of floods, and under a tight roof, and if in sheds, the same shall be good and sufficient and inclosed on every side ; and any Inspector contravening this section shall forfeit ten shillings for every barrel not stored as aforesaid, and forfeit and pay to the Owner thereof, ten shillings, besides the actual damages sustained by the owner. *Ibid*, s. 11.

Inspectors elsewhere than in the city of Montreal to provide proper stores for keeping ashes.

Penalty for default.

14. The Inspector (which word in this section includes the Joint Inspector) for the City of Montreal, shall provide suitable and convenient buildings for the storage and inspection of Ashes, to be furnished with metal gutters and spouts, and to be covered with metal or slate, and to be of that description of building commonly known as *first class*, or such as shall be approved of by the Council of the Board of Trade for that City ;

Inspector for Montreal to provide stores.

Such

And insure ashes against fire.

2. Such Inspector at all times, and at his own cost and charges, shall keep the Ashes stored in the said premises, insured to an amount of not less than twenty-five thousand pounds,—and shall deposit the Policies therefor with the Secretary of the said Board of Trade being, and renew such Policies from time to time as occasion requires, but such Insurance shall not be effected until after the name of the Company or Companies with whom he is desirous of effecting the same has been submitted to the Council of the said Board of Trade, for their approval, and such approval has been signified to the Inspector in writing :

Additional insurance if necessary.

3. And should the said Insurance, at any time, be less than the actual value of the Ashes stored in the said premises, the said Inspector shall at his like costs and charges, and subject to the conditions above prescribed, effect additional Insurance sufficient to cover the extra value of the said Ashes during the time they may remain so stored as aforesaid ; and the said Inspector shall be bound to deliver to the owner thereof, in good order, all Ashes received into the Inspection Stores. *Ibid*, s. 15

Must re-deliver ashes in good order.

Remuneration to be received by Inspector for his services, &c.

15. For all the services to be performed, as aforesaid, each Inspector may charge on the Inspection Bill, as follows :

The sum of four pence, for every hundred weight of Pot or Pearl Ashes by him so inspected ;

The actual cost for every barrel by him furnished ;

The sum of one shilling, for each new head so furnished ; and the sum of nine pence, as and for cooperage and repairs on each barrel of Pot or Pearl Ashes by him so inspected, (the said cooperage to include nails and the end hoops of the barrel) ;

The sum of one shilling and three pence, for putting in a barrel, partly filled with Pot or Pearl Ashes, the additional quantity thereof necessary to fill the same whenever duly required so to do ;

The sum of one shilling and three pence currency per barrel in all cases where lime, raw Ashes, damaged Ashes, or other trash have been packed or mixed with Pot or Pearl Ashes, for his services in extracting and separating the same ;

His duties in return for remuneration.

In consideration of which charges all barrels shall be delivered in good shipping order, and charges shall be paid or allowed to the purchaser by the person offering such Pot or Pearl Ashes for inspection, or his agent. *Ibid*, s. 13—part. 40

Inspector to have all ashes sent him in-

16. Each Inspector shall be bound to have all Ashes sent to him for inspection inspected, and the Inspection Bills prepared for delivery, and the whole well and duly coopered and prepared

prepared for shipment, within a period not exceeding thirty-six working hours from the date such Ashes are received into the Inspection Stores ; and such Inspector shall further be entitled to receive five pence per barrel, for the storage of each barrel of Ashes which remains stored with him as aforesaid more than ten days after the date of the Invoice, Weigh Note, or Inspection Bill, and three pence per barrel for each subsequent month they shall remain stored (reckoning the second month to commence forty days from and after the date of the Invoice, Weigh Note, or Inspection Bill), and such storage and all other charges shall be paid by the person or persons receiving or shipping the said Ashes or by his or their agent ; but in no case shall any storage be paid or required when the Ashes shall not have remained stored as aforesaid during ten days from and after the date of the Invoice or Weigh Note. *Ibid*, s. 13--part.

spected within
36 hours after
receipt.

Allowance for
storage.

Exception.

17. The Inspector of Ashes for the City of Montreal shall further be entitled to charge a sum not exceeding one penny half penny per barrel, as and for Insurance, on each barrel of Pot or Pearl Ashes sent to his premises for inspection, and such Insurance shall be considered as chargeable from the day such barrel is received into the said premises, and the said Ashes shall be held to be insured from the period of such reception, but such rate shall cover all Insurance on the said Ashes during the whole period they may remain stored in the said premises ; and the said Insurance shall be charged by the said Inspector in the Inspection Bill. *Ibid*, s. 13--part.

Charge for
insurance.

18. The said Inspector for the City of Montreal, shall from time to time, make returns of the business of his office to the Council of Board of Trade of the said City of Montreal, whenever duly required so to do by the said Council. *Ibid*, s. 13--part.

Inspector of
Montreal to
make returns
when requir-
ed.

OFFENCES AND PENALTIES.

19. Every Inspector or Assistant Inspector, who, during his continuance in office, is directly or indirectly concerned in the buying or selling of any Pot or Pearl Ashes, or participates in any transaction or profit arising therefrom (other than the fees or emoluments granted by this chapter, for Inspection, Insurance and Storage,) or who permits any cooper or other person by him employed, to retain or keep any Pot or Pearl Ashes, or who brands any barrel of Ashes of any description or size other than is prescribed by this Chapter, or who dates any Weigh Note or Bill of Inspection otherwise than of the day when the Ashes were actually inspected, or who delivers out of his possession any such Weigh Note or Bill of Inspection without any date, or who does not conform to the provisions of this Act, shall, for every such offence, incur a penalty not exceeding one hundred pounds, and be for ever thereafter disqualified from holding and exercising the office of Inspector of Pot and Pearl Ashes, or of Assistant Inspector ;

Inspectors or
Assistants
not to trade in
ashes, &c.

Penalty for so
doing.

Punishment for fraud. Inspector ; and any Inspector or Assistant Inspector or Clerk, or other person, who makes or causes to be made any false or fraudulent Bill of Ashes, shall be guilty of Felony, and shall be punishable by imprisonment with hard labour in the Provincial Penitentiary for any term not exceeding seven years. *Ibid*, s. 17. 5

Inspectors bound to act when called upon at proper hours. **20.** If any Inspector of Pot and Pearl Ashes, or his Assistant not being then employed in the Inspection of any Pot or Pearl Ashes (under this Act,) on application on any lawful day, between sun-rise and sun-set, to him made, refuses to receive any Ashes, or neglects or delays to proceed in such examination, and inspection for the space of two hours after such application, such Inspector or Assistant shall, for each such offence, forfeit the sum of five pounds, current money, to the use of the person or persons so delayed. *Ibid*, s. 18. 10

Penalty for refusing.

Punishment for counterfeiting brand marks, &c.

21. Every person who counterfeits any of the aforesaid Brand Marks of any Inspector of Pot and Pearl Ashes, or without the authority of such Inspector impresses or brands the same, or any other mark purporting to be the mark of any Inspector or Manufacturer of Pot and Pearl Ashes, on any barrel containing Pot or Pearl Ashes, either with the proper marking tools of such Inspector or Manufacturer, or with counterfeit representations thereof, or who empties any barrel of Pot or Pearl Ashes branded as aforesaid by an Inspector or Manufacturer, in order to put therein other Pot or Pearl Ashes for sale or exportation, without first cutting out the said Brand Marks, or fraudulently packs therein any other substance than the Pot or Pearl Ashes branded in the same by the Inspector or Manufacturer ;—And if any person in the employ of any Inspector or Manufacturer of Pot or Pearl Ashes, hires or loans out the marks of his employer to any person whatever, or connives at or is privy to any fraudulent evasion of the provisions of this Act, shall, for every such offence, incur a penalty of fifty pounds. *Ibid*, s. 19. 15

Or hiring out brands, &c.

Inspection not obligatory.

But ashes exported to be marked, &c.

22. Nothing in this chapter shall prevent any person from exporting Pot and Pearl Ashes, without inspection, provided that on one end of the barrel, containing the same, there be neatly and legibly branded or marked, the name and address of the manufacturer, the weight and tare of the barrel, and the quality of Ashes contained in it ; but any person who exports any Pot or Pearl Ashes not so marked as aforesaid, or wilfully marks any such barrel falsely, shall thereby incur a penalty of five pounds. *Ibid*, s. 21, as amended by 18 V. c. 95. 20

Recovery and application of fines and forfeitures under this chapter.

23. Every penalty and forfeiture imposed by this chapter, not exceeding ten pounds, shall be recoverable by any Inspector or Assistant Inspector, or any other person suing for the same, in a summary way, in any Court having civil jurisdiction to the amount, and shall, on failure of payment, be levied by execution as in the case of debt ;—And one moiety of every such penalty and forfeiture, when recovered, shall (except when herein otherwise 25

otherwise provided) be immediately paid into the hands of the Treasurer of the corporation, city or place wherein the action or prosecution is brought, for the public uses of the said city or place respectively, and the other moiety shall belong to the person suing for the same, unless the action be brought by an officer of such Corporation, in which case the whole shall belong to the Corporation for the said uses. *Ibid*, s. 22.

24. Any person not being duly authorized under this Chapter, who in any manner whatever assumes the title or office of Inspector of Pot and Pearl Ashes, or exercises any of the duties of such Inspector, or issues any bill, certificate or declaration purporting to establish the quality of any Pot Ashes or Pearl Ashes, shall, for every such offence, incur a penalty of Five Pounds, which may be recovered in the manner prescribed by the foregoing section, or by summary conviction before any Justice of the Peace, who, in default of immediate payment, may issue a Warrant of Distress, or commit the offender to the common gaol until such penalty be paid. 18 V. c. 95, s. 2.

Any person assuming the title of inspector without proper authority to incur a penalty.

25. If any action or suit be brought against any person for any thing done in pursuance of this chapter, such action or suit shall be commenced within six months next after the matter or thing done, and not afterwards, and the defendant may plead the general issue and give this chapter and the special matter in evidence at any trial therein, and if afterwards judgment is given for the defendant, or the plaintiff shall be nonsuit or discontinued his action after the defendant has appeared, then such defendant shall have treble costs against such plaintiff and the like remedy for the same, as any defendant hath in other cases to recover costs at law. 18 V. c. 11, s. 23.

Limitation of actions for things done under this chapter.

General issue may be pleaded.

Treble costs.

C A P . L .

An Act respecting the Inspection of Fish and Oil.

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

APPOINTMENT OF INSPECTORS.

- Governor in Council to appoint Inspectors of Fish and Oil in certain places.** 1. The Governor in Council may appoint Inspectors of Fish and Oil in the Districts of Quebec and Montreal, in the Counties of Gaspé and Bonaventure and in the Magdalen Islands, respectively, and also in such Counties, Districts and localities respectively, in Upper and Lower Canada, as may be deemed most conducive to the interests and wants of each section of the Province. 22 V. c. 25, s. 2---part. 5
- Inspectors to take an oath of office.** 2. Each person so appointed an Inspector of Fish and Oil, shall, before entering upon the duties of his office, give security to the satisfaction of the Governor in Council, in the sum of one hundred pounds currency, for the due performance of his said duties, and shall take and subscribe the following oath before one of the justices of the peace for the district or county in which he has been appointed to act : 10
- The oath.** " I, A. B., Inspector of Fish and Oil, in and for the City or County (or as the case may be) of _____, do solemnly swear, that to the best of my judgment, skill and understanding, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such Inspector, according to the true intent and meaning of the Act, &c." (insert the title of this Chapter.) 20
- Oath where kept.** And the Magistrate shall cause the said oath to be filed with and kept by the Clerk of the Peace for the District or County where the Inspector has been appointed ;—And the Clerk of the Peace, if so required, shall furnish a certificate thereof to the Inspector taking the same, on payment of two shillings and six pence, currency. 22 V. c. 25, s. 3. 25
- Duty of Inspector.** 3. It shall be the duty of each such Inspector to see that all Salmon, Mackerel, Shad, Herring, and all kinds of split, whole, dried, pickled or salted fish, of any kind, intended for barrelling and submitted to him for inspection, have been well struck with salt or pickle, in the first instance, and preserved sweet, free from taint, rust, oil and damage of every kind ; and no other fish shall be branded by him as inspected and merchantable. 22 V. c. 25, s. 5. 30
- No fish to be branded ex-** 4. No fish of the description hereinabove mentioned, intended for exportation, shall be branded as inspected and merchantable, unless 40

unless it be well and properly packed in good, tight and substantial tierces, half tierces, barrels or half barrels : cept packed in proper tierces, &c.

2. Nor shall any pickled or salted Salmon be so branded, Nor salmon, except in tierces of a certain weight.
 5 except in tierces containing three hundred pounds, exclusive of salt and pickle, or in half tierces containing one hundred and fifty pounds, exclusive of salt and pickle, or in barrels containing two hundred pounds, exclusive of salt and pickle, or in half barrels containing one hundred pounds, exclusive of salt and pickle, avoirdupois weight ;

10 3. Nor shall any other pickled or salted fish be so branded, if packed in barrels containing less than twenty-eight gallons or in half barrels less than fourteen gallons wine measure. Nor any other pickled or salted fish, except packed in barrels containing a certain quantity. 22 V. c. 25, s. 6. Casks how to be made.

15 5. All casks used for the packing of salmon, herring, mackerel, salmon, salmon-trout, white fish or shad, or any other kinds of fish, shall be made of good sound wood, of cedar, pine, spruce, fir or hardwood, and each barrel or cask, if of soft wood, shall have a hardwood bung stave. 22 V. c. 25, s. 19. Casks how to be made.

20 6. No red and smoked herrings shall be so branded, unless they be well and sufficiently cured and saved, and carefully and properly packed in good and substantial barrels, half barrels, kegs or boxes,—And each box of herrings shall weigh at least twenty-five pounds. 22 V. c. 25, s. 8. As to the branding of red and smoked herrings.

25 7. But casks containing any small fish usually packed whole, may be branded provided they have been fully packed close, edgewise, and properly salted with good coarse whole-some dry salt, in quantity sufficient only for their due preservation. 22 V. c. 25, s. 7. Casks containing small fish may be branded, &c.

MODE OF INSPECTION.

30 8. Each Inspector shall provide himself with sufficient branding irons, for the purpose of branding such casks and boxes as may by him be inspected in pursuance of this chapter. 22 V. c. 25 s. 4. Inspectors to have branding irons, &c.

35 9. Each Inspector, when called upon to inspect any fish of the description above mentioned, shall carefully and attentively examine every cask or box submitted to him for inspection : Inspector to examine every cask, &c.

40 2. If such fish be of a good quality, in wholesome pickle and clean salt, and in every way in good order, free from taint, rust, oil and damage, well and properly packed in good, tight and substantial tierces, half tierces, barrels or half barrels, kegs or boxes as hereinabove provided, the Inspector shall brand Inspected Merchable No. 1.

brand on the heads or butts of each cask or box so inspected, in large and legible letters, the words *Salmon*, *Muckerel* or *Herrings*, (as the case may be,) *Quebec* or *Mont-real*, (or as the case may be,) *Inspected Merchantable*, No. 1;

Inspected
No. 2.

3. Such fish as are found of an inferior or second quality, or carelessly or badly packed, or in insufficient casks, kegs or boxes, or not in every respect as hereinabove required, shall by such Inspector be branded forthwith on the head or butt of the cask, keg or box with the words "*Inspected No. 2*;"

Inferior
No. 3.

4. The third quality of fish shall be marked "*Inferior No. 3*;"

Inspector's
name, &c., to
be marked on
each package,
&c.

5. The name of the Inspector, and the place, year and month of inspection, shall be marked on the package in all cases of inspection;

If part of the
fish is sound
and part un-
sound.

6. And if it appears to the Inspector that a part of the fish inspected by him, is sound and a part unsound, he shall separate the sound from the unsound, repack the sound fish, and brand it according to its quality, and such portion as the inspector judges not capable of preservation, he shall condemn as bad. 22 V. c. 25, s. 9.

Inspected,
mixed.

10. If the Inspector finds fish of two or more kinds or qualities intermixed in the same cask, although the same are well cured and otherwise in good order, he shall brand upon such cask the words "*Inspected, Mixed*," both in large and legible characters. 22 V. c. 25, s. 10.

How oil shall
be branded.

11. Each Inspector shall in like manner, when called upon, carefully inspect all the sorts of oil hereinafter mentioned, and shall paint on the head of the casks in which such oil may be contained the words *Seal Oil*, *Whale Oil*, (as the case may be,) and the name of the Inspector, the place, with the contents and *outs* of each cask. 22 V. c. 25, s. 11.

In case of dis-
pute, refer-
ence to be had
to another In-
spector, whose
decision shall
be final.

12. In case of any dispute between any Inspector and his Employer, reference shall be had to another Inspector, and his decision shall be final, and should the opinion of the Inspector be sustained, the expense incurred shall be paid by the owner of the fish, but if otherwise, then the Inspector shall pay the cost incurred by the arbitration. 22 V. c. 25, s. 18.

Remuneration
to be received
by Inspectors
for their ser-
vices, &c.

13. Each Inspector shall, for the services by him performed as such, be entitled to the following rates or allowances from the persons employing him, and no more, that is to say:

1. For each tierce of salmon, salmon-trout or sea-trout inspected and branded, one shilling and three pence currency;

2.

2. For each half tierce of salmon, salmon-trout or sea-trout so inspected and branded, seven pence and a half penny currency ;
3. For each barrel of salmon, salmon-trout or sea-trout inspected and branded, seven pence and a half penny currency ;
4. For each half barrel of salmon, salmon-trout or sea-trout so inspected and branded, six pence currency ;
5. For each tierce of mackerel inspected and branded, one shilling and three pence currency ;
6. For each half tierce of mackerel so inspected and branded, seven pence and a half penny currency ;
7. For each barrel of mackerel inspected and branded, seven pence and a half penny currency ;
8. For each half barrel of mackerel so inspected and branded, six pence currency ;
9. For each tierce of herring inspected and branded, one shilling and three pence currency ;
10. For each half tierce of herring so inspected and branded, seven pence and a half penny currency ;
11. For each barrel of herring inspected and branded, seven pence and a half penny currency ;
12. For each half barrel of herring so inspected and branded, six pence currency ;
13. For each tierce of shad inspected and branded, one shilling and three pence currency ;
14. For each half tierce of shad so inspected and branded, seven pence and a half penny currency ;
15. For each barrel of shad inspected and branded, seven pence and a half penny currency ;
16. For each half barrel of shad so inspected and branded, six pence currency ;
17. For each tierce of white fish so branded and inspected, one shilling and three pence currency ;
18. For each half tierce of white fish so branded and inspected, seven pence and a half penny currency ;

19. For each barrel of white fish so branded and inspected, seven pence and a half penny currency ;

20. For each half barrel of white fish so branded and inspected, six pence currency ;

21. For each box of herring, one penny ;

22. For each cask of oil containing twenty-eight gallons inspected and branded, one shilling currency ;

23. For each tierce of oil, one shilling and one penny currency ;

24. For each hogshead of oil, one shilling and three pence currency ;

25. And for each puncheon of oil, one shilling and three pence currency ;

26. All such rates and allowances shall be over and above the expense of cooperage, and washing, cleaning and re-packing any salmon or fish, which the Inspector may incur in the execution of his duty ;

27. And for liming or white-washing with lime the heads or butts of any vessel of any description containing oil, the Inspector having performed such duty shall be entitled to two pence currency. 22 V. c. 25, s. 15.

Dry or green codfish.

14. Any dry or green codfish may be inspected, and the Inspector may give a certificate stating the quantity and quality thereof, inspected and shipped on board of any vessel, and for each quintal so inspected and branded, he shall receive one penny, and for each draft of green fish, one penny currency. 22 V. c. 25, s. 16.

Owner of fish inspected may employ his own cooper.

15. Any person causing his fish or oil to be inspected, may employ at his own cost and charges, a cooper to attend upon and assist the Inspector in the performance of his duty, in which case the Inspector shall not be allowed any charge for cooperage, and the cooper so employed shall be governed and guided solely by the directions which he receives from the Inspector, with respect to any fish or oil by him inspected, and not by any other person whomsoever. 22 V. c. 25, s. 17.

PENALTIES AND THEIR RECOVERY.

Penalty on Inspector branding

16. If any Inspector brands any cask, keg or box of any description of fish or oil mentioned in this chapter, the contents of which he has not inspected according to the true intent and meaning

meaning of this chapter, or if he knowingly permits any other person or persons to use his brands,—he shall, on being thereof convicted, incur a penalty of twenty shillings currency, for each cask, keg or box so branded, contrary to the provisions of this chapter, and shall forthwith be removed from office. 22 V. c. 25, s. 12.

17. If any person, other than an Inspector appointed under this chapter, wilfully effaces or obliterates, or causes to be effaced or obliterated, from any cask, keg or box, having undergone inspection, all or any of the brands or marks thereupon impressed or branded by any Inspector, or fraudulently impresses or brands upon any cask, keg or box, any of the brands or marks by this chapter required to be branded on casks, kegs or boxes containing fish or oil so inspected as aforesaid, or empties any cask, keg or box already branded, in order to put other fish or oil therein for sale or exportation, such person shall, on conviction for each such offence, incur a penalty not exceeding twenty pounds currency. 22 V. c. 25, s. 13.

18. No Inspector appointed under this chapter shall trade in, buy or sell directly or indirectly (otherwise than for the consumption of himself and family,) fish or oil of any kind or description to which this chapter relates, under the penalty of twenty-five pounds currency, for each act of contravention or disobedience of the provisions of this section, and on pain of being dismissed from office. 22 V. c. 25, s. 14.

19. One moiety of the pecuniary fines and of the forfeitures under this Chapter, shall belong to Her Majesty, and the other moiety to the complainant. 22 V. c. 25, s. 20.

20. All penalties incurred under this chapter must be sued for within three months from the commission of the offence. 22 V. c. 25, s. 21.

21. Any offender who does not forthwith pay the fine and costs he has been condemned to pay, shall be committed to Gaol for a term of not less than one month, nor more than six months, at the discretion of the Magistrate before whom he has been convicted. 22 V. c. 25, s. 22.

22. Every penalty or forfeiture imposed by this chapter or the regulations to be made under it, may be recovered on complaint before the Superintendent of fisheries, or any Stipendiary or other Magistrate, in a summary manner, and the proceedings and the costs to be recovered shall be the same as are provided by law in either Section of the Province in other cases where summary jurisdiction is given to Magistrates. 22 V. c. 25, s. 23.

REGULATIONS AND RETURNS.

Governor in Council may make regulations: to be published in *Canada Gazette*.

23. The Governor in Council may from time to time make any and every regulation that may be necessary, for better carrying out the provisions of this chapter: and every such regulation, being published in the *Canada Gazette*, shall so far as it may not be inconsistent with this Chapter or with law, have the same effect as if it were inserted in this chapter. **23**
V. c. 25, s. 2---part.

Inspector to make annual returns, &c.

24. Each Inspector of Fish shall annually, on or before the first day of January in each year, make a return to the Commissioner of Public Lands or to the Superintendent of Fisheries, shewing the quantity of fish inspected by him, and the names of the owners of the said fish, with the quality and species thereof respectively. **22** V. c. 25, s. 24.

CAP. LI.

An Act respecting the Inspection of Sole Leather.

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

APPOINTMENT OF EXAMINERS AND INSPECTORS.

1. The Board of Trade for each of the Cities of Montreal and Toronto, may appoint a Board of Examiners of Applicants for the office of Inspector of Sole Leather, and may from time to time remove such Examiners and appoint others in their stead. Board of Trade in Montreal and Toronto to appoint Examiners.

Each of such Boards of Examiners shall consist of five persons of experience and practice in the manufacture, or acquainted with the qualities of Leather; and each Examiner shall, before acting as such, take and subscribe the following oath: To consist of five persons, &c.
To take an oath.

" I, A. B., do solemnly swear, that I will not directly or indirectly, personally or by means of any person on my behalf, receive any fee, reward or gratuity whatever by reason of any function of my office as Examiner, and that I will therein well and truly in all things act without partiality, favour or affection and to the best of my understanding. Oath.

" So help me God." 22 V. c. 26, s. 1.

2. Upon the receipt of any requisition signed by not less than ten persons engaged in the manufacture or consumption of Sole Leather in any incorporated City or Town in this Province, setting forth the necessity of the appointment of an Inspector of Sole Leather in such City or Town, the Governor in Council may appoint an Inspector of Sole Leather for the said City or Town, and may, from time to time, remove the said Inspector and appoint another in his stead; but no person shall be appointed an Inspector of Sole Leather who has not, previous to his appointment, passed an examination before one of the said Boards of Examiners, and obtained a certificate of his fitness, character and capacity. 22 V. c. 26, s. 2. Governor in Council may appoint Inspector of sole leather on requisition of not less than ten persons.

3. Every Inspector before acting as such shall furnish two good and sufficient sureties jointly and severally with himself for the due performance of the duties of his office, in the sum of one thousand dollars, to be approved by the chief Municipal Officer of the City or Town for which he has been appointed, in a Bond to be executed to Her Majesty, Her Heirs and Successors, and such Bond shall avail to the Crown, and to all persons whomsoever who shall or may be aggrieved by any breach of the conditions thereof: Inspector to furnish security.

And

- Inspector to take an oath And every Inspector before acting as such shall take and subscribe the following Oath before the chief Municipal Officer of the City or Town for which he has been appointed, who shall administer the same :
- The oath. " I, A. B., do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill, and understanding, do and perform the office and duty of an Inspector of Sole Leather, and that I will not directly or indirectly, by myself, or by any other person or persons whomsoever, trade or deal in Leather, or be connected in any such trade, or purchase any Leather of any description, otherwise than for the use of my family, during the time I continue such Inspector. So help me God." 22 V. c. 26, s. 3.
- Inspector may appoint assistants. **4.** Any Inspector of Sole Leather may appoint one or as many more Assistants as he from time to time requires, and shall appoint such assistants as he may be required to appoint by the Board of Trade of the City for which he is appointed, for the acts of each of which Assistants he shall be responsible :
- Assistants to take an oath. Each such Assistant shall take and subscribe the following Oath before the Mayor, or Chief Municipal Officer of the City or Town for which he has been appointed, who is hereby required to administer the same :
- The oath. " I, A. B., do swear that I will diligently, faithfully and impartially, perform the duties of the office of Assistant to the Inspector of Sole Leather, and that I will not directly or indirectly, myself or by any other person or persons whomsoever, trade or deal in Leather, or be connected in any such trade, or purchase any Leather of any description, otherwise than for the use of my family, during the time that I continue such Assistant Inspector. So help me God." 22 V. c. 26, s. 4.
- Oath where recorded. **5.** Every Oath taken and every Bond made or executed by any such Inspector, and every Oath taken by any such Assistant Inspector, shall be recorded at the office of the Chief Municipal Officer of the place for which such Inspector or Assistant Inspector has been appointed ;—And every person shall be entitled to have communication and copy of any such Oath or Bond, upon payment to the Treasurer of the Municipality of twenty cents, for every communication, and fifty cents for each copy. 22 V. c. 26, s. 5.
- Open to the public. **6.** Every Assistant Inspector shall be paid by, and shall hold his office at the pleasure of the Inspector, and may be removed or re-installed, or others may be appointed in his stead by such Inspector. 22 V. c. 26, s. 6.
- Assist. Inspector to hold office during pleasure of Inspector.

MODE OF INSPECTION.

7. Every Inspector or Assistant Inspector, may examine and inspect any side or piece of Leather on application being made to him for that purpose by the proprietor or possessor thereof, and ascertain the respective weight, qualities and conditions thereof. 22 V. c. 26, s. 7. Inspector to inspect leather when required.
8. Such Inspection may be made either at the store, shop or warehouse of such Inspector, which he is hereby required to keep in a convenient situation for that purpose, or at some store within the limits of the place for which the Inspector is appointed, respectively, at the option of the proprietor or possessor of such Leather: And when such Inspection shall be made at the store of the said Inspector, there shall be no charge for storage till twenty-four hours after the Leather has been inspected, but all trouble and expense attendant upon the loading, unloading and moving the Leather shall be at the cost of the person at whose request the Leather has been inspected. 22 V. c. 26, s. 8. Where such inspection shall be made.
As to storage.
9. Each Inspector or Assistant Inspector, shall provide and have a sufficient number of brands or marking instruments, marked immediately after inspection, on each side or piece of Leather, the name of the place of inspection, and the initials of the name of the Inspector, with the name or kind of the Leather and the weight and quality thereof as hereinafter directed; And on each side or piece which is found to be of a damaged or unmerchantable quality, the Inspector or Assistant Inspector shall brand or cause to be branded the word "Rejected" or "Damaged" in letters as large as those upon the rest of the brand or inspection mark. 22 V. c. 26, s. 9. Inspector to have brands, &c.
10. All brand marks shall be neat and legible, and shall be made at one end of the leather within a space not exceeding two inches long by one inch and a half broad. 22 V. c. 26, s. 10. Brand marks to be neat and legible.
11. Every kind of sole leather shall be divided as to its quality into three classes, to be known as Number One, Number Two, and Number Three: Leather to be divided into 3 classes.
- And such leather as is ordinarily distinguished among dealers by its comparative weight, shall also be divided into three classes, to be known as *heavy*, *middling*, and *light* weight; every piece or side of leather under fourteen pounds weight shall be considered *light*, every piece or side of leather of fourteen pounds weight and under twenty pounds weight shall be considered *middling*, and every piece or side of leather of twenty pounds weight and over shall be considered *heavy* or *over weight*. 22 V. c. 26, s. 11. Further division.

- Leather of certain qualities, how branded.** **12.** Leather of the first, second or third quality shall be marked or branded respectively with the figures 1, 2 or 3. 25
V. c. 26, s. 12.
- Brand to be affixed by stamping, &c.** **13.** The brand or mark may be affixed by stamping, or by any other process rendering such brand or mark indelible: and every such brand or mark, so far as circumstances will permit, shall be in the form A to this Chapter annexed, or to the like effect. 22 V. c. 26, s. 13. 5
- Remuneration for inspection.** **14.** For every side or piece of sole leather so inspected, the Inspector shall be entitled to demand and receive two cents from the party requiring the inspection of the same. 22 V. c. 26, s. 14. 10
- In case of disputes between Inspector and owner, &c.** **15.** If any dispute arise between an Inspector and the proprietor or possessor of any leather inspected by him or his assistant, with regard to the weight, quality or condition thereof, or relating in any respect to the same, then upon application by either of the parties, to any Justice of the Peace at the place at which such Inspector shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity, one to be named by the Inspector, another by the proprietor or possessor of the leather, and the third by the Justice of the Peace, requiring the said three persons immediately to examine the said leather, and report under oath their opinion in writing of the weight, quality and condition thereof;—And their decision, or that of the majority of them shall be final and conclusive, whether approving or disapproving the judgment of the Inspector, who shall immediately attend and conform thereto, and brand or mark or cause to be branded or marked such leather, of the weight, quality or condition directed by the decision: 30
- Three persons to decide under oath.**
- Their decision to be final.**
- Costs and charges.** **2.** If the opinion of the Inspector be confirmed, the reasonable costs and charges of re-examination as ascertained and awarded by the said Justice of the Peace, shall be paid by the said proprietor or possessor of the leather, or if otherwise, by the Inspector; 25
- Inspector not to be liable for costs, except, &c.** **3.** But no Inspector shall be liable for costs or damages for any deficiency or excess in the weight of such leather, unless such deficiency or excess in the weight exceed five per cent of the whole weight of the said leather. 22 V. c. 26, s. 15. 35

OFFENCES AND PENALTIES.

- Board of Trade may examine into complaints against any Inspector, &c.** **16.** The Board of Trade of any City or Town may examine into any complaints made against any Inspector for neglect or improper performance of his duties, and if they decide that such complaints are well founded, and that such Inspector ought to be removed from office, they may notify such decision to the Governor 40

Governor in Council, who shall thereupon remove such Inspector from his office and appoint another in his stead. 22 V. c. 26, s. 16.

17. Any Inspector or Assistant Inspector who refuses or neglects, on application to him personally made, or by writing left at his dwelling house, store, office or warehouse on any lawful day between sun-rise and sun-set, by any proprietor or possessor of Leather, (such Inspector or Assistant Inspector not being at the time of such application employed in inspecting leather,) immediately, or within two hours thereafter, to proceed to such inspection, shall for every such neglect or refusal, forfeit and pay to the person so applying, on conviction thereof, on the oath of one credible witness other than the informer, the sum of twenty dollars over and above all the damages occasioned by such refusal or neglect to the party complaining. 22 V. c. 26, s. 17.

Penalty on Inspector refusing or neglecting to inspect, &c.

18. No Inspector or Assistant Inspector shall directly or indirectly trade or deal in Leather, or be concerned in any such trade, or purchase any Leather of any description, otherwise than for the use of his own family, under the penalty of forty dollars, for each and every such offence, and on pain of being immediately removed from the office, and of being disqualified from holding such office in future. 22 V. c. 26, s. 18.

No Inspector or Assistant to trade in leather.

19. Any person who, with fraudulent intentions,—effaces or causes to be effaced from any side or piece of Leather having undergone inspection, all or any of the Inspector's marks,—or counterfeits any such mark,—or impresses or brands any mark purporting to be the mark of the Inspector, either with the proper marking tools of such Inspector or with counterfeit representations thereof, on any side or piece of Leather,—or who (not being an Inspector) brands or marks any Leather with the Inspector's mark or any part thereof,—or connives at or is privy to any fraudulent evasions of this chapter, shall, for every such offence respectively, incur a penalty of forty dollars;— And any Inspector who inspects or brands or marks any Leather out of the limits for which he is appointed, or hires out his marks to any person whatsoever, or connives at or is privy to any fraudulent evasion or inspection of Leather by others, shall, for each such offence, incur a penalty of forty dollars, and be immediately removed from his office, and be disqualified from holding such office in future. 22 V. c. 26, s. 19.

Penalty on persons fraudulently effacing marks—or counterfeiting marks, &c.

Penalty on Inspector branding out of his limits, &c.

20. Every penalty imposed by this chapter, shall be recoverable by the Inspector or by any other person suing for the same;—And one moiety of every penalty (except when hereinbefore otherwise applied) shall be paid to the Treasurer of the City, Town, or Place where the offence was committed, for the public uses of the

Penalty how recoverable, &c
Division of penalty.

Proviso. the Corporation thereof, and the other moiety shall belong to the person suing for the same: Except that if an Officer of the Corporation of such place be the prosecutor, the whole penalty shall belong to the Corporation for the use aforesaid. 22 V. c. 26, s. 20.

Limitation of time for commencing suit. 21. No suit or prosecution for any pecuniary penalty incurred under this chapter, for any offence against its provisions, shall be commenced after the expiration of six months after the commission of the offence. 22 V. c. 26, s. 21.

INSPECTION NOT COMPULSORY.

Inspection not compulsory. 22. Nothing in this chapter shall oblige any person to cause any Sole Leather to be inspected, but if inspected, it shall be subject to the provisions of this chapter, and shall not be marked or branded as inspected, unless the said provisions have been in all respects complied with as regards such Leather. V. c. 26, s. 22.

FORM A.

Montreal,

No. 1.—Good.

18½

1858.

J. B. Ins.

FORM B.

Toronto,

No. 2.—Rejected.

14½

1858.

J. B. Ins.

FORM B.

Quebec,

No. 3.—Damaged.

17

1859.

J. B. Ins.

CAP. LII.

An Act respecting the Inspection of Hops.

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

APPOINTMENT OF INSPECTORS.

1. Upon the receipt of any requisition signed by not less than twenty persons concerned in the production or consumption of Hops, setting forth the necessity of the appointment of an Inspector of Hops in any incorporated City in this Province, the Minister of Agriculture shall cause a notice to be inserted in the *Canada Gazette* and in two newspapers published in such incorporated City, to the effect that every person resident and doing business in such incorporated City, who is desirous of being appointed Inspector of Hops may, within two months from and after the first insertion of such notice, transmit to the Minister of Agriculture a statement, under oath, setting forth his name, place of business, and the length of time during which he has been concerned in the growth, or consumption, of, or traffic in Hops (as the case may be,) and the quantity of Hops produced, consumed, bought or sold by him during such period, accompanied by such testimonials of his skill in judging of the qualities of Hops as he sees fit and is able to procure, and signifying also his desire to be appointed an Inspector of Hops. 22 V. c. 87, s. 1.
2. After the expiration of two months from the first insertion of the notice above mentioned, the Governor in Council may appoint from among the applicants who have complied with the requirements of such notice, the person who seems best suited to the discharge of the duties of the office, to be an Inspector of Hops:
2. But before any person so appointed an Inspector shall act as such, he shall furnish two good and sufficient sureties who shall be bound with himself for the due performance of the duties of his office in the sum of one hundred pounds currency each, subject to the approval of the Mayor or chief municipal authority of the City for which the Inspector is appointed;
3. A bond shall be executed to Her Majesty in the form used with regard to persons appointed to offices of trust in this Province;—And such bond shall avail to the Crown, and to all persons whomsoever who shall or may be aggrieved by the breach of the conditions thereof;
4. No Inspector shall allow any person whomsoever to act for him about the duties of his office excepting only his sworn Assistant

On a certain requisition, the Minister of Agriculture shall advertise for persons willing to become Inspector of Hops in any City.

The applicant best qualified shall be appointed.

He must give security.

Bond.

No person to act except In Assistant

Inspector or his sworn assistant. Assistant or Assistants, to be appointed in the manner herein after provided. 22 V. c. 87, s. 2.

Custody of the bond. **3.** The bond of suretyship which shall be executed by such Inspector and his sureties, shall be made and kept at the office of the Clerk of the Corporation of the City for which such Inspector is appointed; And every person shall be entitled to have communication and copy of any such bond or suretyship at such Clerk's office, upon payment of one shilling currency for each communication, and of two shillings and six pence currency for each copy. 22 V. c. 87, s. 3.

Inspector to be sworn. **4.** Each person appointed an Inspector of Hops shall, before acting as such, take and subscribe an oath before the Mayor of the City for which he is appointed, who shall administer the same in the words following, to wit :

The oath. "I, A. B., do solemnly swear that I will faithfully and truly and impartially, to the best of my judgment, skill and understanding, do and perform the office of an Inspector of Hops, according to the true intent and meaning of an Act of the Legislature of this Province, intitled, *An Act respecting the Inspection of Hops*; and that I will not directly or indirectly, by myself or by any other person or persons whomsoever, grow, produce, buy or sell any Hops on my own account, or upon the account of any other person or persons whomsoever; nor will I be or remain in the employment or service of any person or persons who may be engaged in the growth of Hops, or consumption of Hops, during the time I shall continue such Inspector. So help me God;"

Which oath shall be recorded in the office of the Clerk of the City where the same shall be taken :

Fees for receiving such oath. **2.** For recording such oath, and for a certificate thereof, the Clerk shall be entitled to demand the sum of two shillings and six pence, and no more; and shall give communication of the original to any person applying for the same, on payment of one shilling currency for such communication, and two shillings and six pence currency for each copy. 22 V. c. 87, s. 4.

Inspector may appoint Assistants. **5.** Each Inspector may appoint and remove from time to time some skilful person to act as his Assistant in case of the absence, sickness or other incapacity of the Inspector, which Assistant shall, on being required so to do, perform the several duties and acts hereinbefore assigned to the Inspector, except that he shall mark his own name and the name of his office, "Assistant Inspector," upon every bale and package by him inspected;—And for the performance of such services he shall receive such remuneration as may be agreed

His remuneration.

agreed upon between himself and the Inspector. 22 V. c. 87, s. 10.

6. The Inspector and his sureties shall be responsible for the acts of his Assistant done under this Chapter, in the same manner and to the same extent that he would have been responsible had they been done and performed by himself: Inspector and his sureties to be responsible for Assistants who shall be sworn.

2. Each Assistant, before he shall act as such, shall take and subscribe the following oath, before the Mayor of the city in which he is appointed, who shall administer the same :

10 "I, A. B., do swear that I will diligently, faithfully and
 "impartially execute the office of Assistant of the Inspector of The oath.
 "Hops, for the city of _____, according to the true intent
 "and meaning of an Act of the Legislature of this Province,
 "intituled, *An Act respecting the inspection of Hops*, and
 15 "that I will not directly or indirectly, personally or by means
 "of any person or persons in my behalf, receive any fee,
 "reward or gratuity whatever by reason of my office of Assistant
 "to the said Inspector (except my salary from the said Inspec-
 20 "tor), and that I will not directly or indirectly, trade in Hops,
 "or be in any manner concerned in the purchase or sale of the
 "same, nor will I be or remain in the employment or service
 "of any person or persons who may be engaged in the growth,
 "traffic or consumption of Hops during the time I shall con-
 25 "tinue such Assistant Inspector. So help me God." 22 V.
 e. 87, s. 11.

INSPECTION.

7. Each Inspector shall provide himself with suitable and convenient premises for the storage and inspection of Hops at the place for which he is appointed, and shall keep all bales and packages of Hops delivered to him for inspection, whilst they remain in his possession, in some dry place, safe from 30 the injuries of the weather or of floods, and under a tight roof, and if in sheds, the same shall be good and sufficient and enclosed on every side, and the packages shall be so deposited that no moisture shall be imparted to them from 35 the earth; And for the time which they are in his possession previous to the inspection thereof, and for twenty-four hours after such inspection, the said Inspector shall be entitled to make no charge for storage, but all trouble and expense attendant upon the loading, unloading and moving the said 40 Hops shall be at the cost of the person at whose request the said Hops are inspected. 22 V. c. 87, s. 5. Inspector to have proper building for storage of hops. Owner to pay costs of moving them, &c.

8. Every such Inspector shall receive into his premises provided as aforesaid, all Hops presented to him for inspection, and shall examine and inspect the same by thoroughly cutting 45 into and examining each bale and package, and he shall classify Examination and classification of hops.

classify and assort the same into three different grades or classes according to their different qualities and conditions, to be denominated, Number One ; Merchantable ; Number Two.

- Number One Hops.** 2. Number One Hops shall comprise all those which are of the first quality in respect to picking, curing, packing, strength, color, flavor, and all other properties which, combined, would constitute a superior article for sale or use in Canada ;
- Merchantable Hops.** 3. Merchantable Hops shall comprise all those which are good, sound and saleable, and in which no material defect or injury exists to the depreciation of their value for use, and which fully possess all the essential properties which render Hops valuable for use, but in a degree inferior to those classified as Number One Hops ;
- Number Two Hops.** 4. Number Two Hops shall comprise the remainder of those which are fit and valuable for use, but which, from some defects or injuries or improper picking, curing or package, are unworthy to be classified as Merchantable Hops ;
- How inspected hops shall be marked.** 5. And the Inspector shall mark in plain letters and figures on each and every bale and package of Hops by him inspected, containing Hops of the quality hereinabove described as Number One Hops, the characters, " No. 1 ;"—of the quality hereinabove described as Merchantable, the word " Merchantable," and of the quality hereinabove described as Number Two Hops, the characters, " No. 2,"—with his own name and that of the place where the said Hops are inspected, and the year when such inspection is made, together with the weight of each bale or package ;—He shall also mark upon each bale or package which seems to him to be unsaleable or unfit for use, the word " Unmerchantable ;"
- Weigh Note, &c.** 6. He shall also make and deliver a separate weigh note or bill of each quality of Hops whenever he is required to do by the owner thereof or his agent. 22 V. c. 87, s. 6.
- Case of particular defects in hops otherwise good.** 9. If from any particular defect in the quality or condition of Hops, or from unskillful picking, curing, packing or other particular circumstance, the Inspector places the mark of an inferior grade upon Hops which would be otherwise of a superior grade, he shall make an entry to that effect and state the particular fault, upon his book to be kept as hereinafter provided, and shall make a memorandum to the same effect upon the weigh note or bill of inspection which he shall deliver to the person entitled to the same. 22 V. c. 87, s. 7.
- Book to be kept by Inspector.** 10. Each Inspector shall keep a book, in which shall be regularly entered the number of each bale or package by him inspected, with its weight and quality, and the name of the owner

owner of the same or person presenting it for inspection; and the first bale or package presented for inspection, being the growth of the year in which it is so inspected, shall take the number one, and each bale or package subsequently inspected shall take a number corresponding to the order of inspection, the numbers being continuous until Hops being the growth of the next ensuing year are presented for inspection; and the said Inspector shall also mark upon each bale or package inspected the number corresponding to the entry in his book. 22 V. c. 87, s. 8.

Bales, &c., to be entered by numbers in order.

FEEES AND CHARGES.

11. For all the services to be performed as aforesaid, the Inspector may charge to the owner of the Hops, or the person presenting them for inspection, two shillings and six pence for every hundred pounds weight inspected; and he may charge a reasonable sum for storage of the same for the actual time they are left in his possession after the first twenty-four hours the time of inspection; and he shall not be entitled to make any further charges for any services performed under this Chapter; But the Inspector shall not be liable for losses by fire or other accidents which he could not have reasonably foreseen and prevented. 22 V. c. 87, s. 9.

Charges and liability of Inspector.

12. If any dispute arises between any Inspector or Assistant Inspector and the proprietor or possessor of any Hops, with regard to the quality thereof, then, upon application to any one of Her Majesty's Justices of the Peace for the place in which such Inspector or his Assistant acts, the said Justice shall issue his summonses to three persons of skill and integrity, one whereof to be named by the Inspector or his Assistant, another by the proprietor or possessor of the Hops, and the third by the Justice, requiring the said three persons to examine and inspect the same, according to the provisions of this Chapter, and report their opinion of the quality and condition thereof under oath (which oath the said Justice shall administer,) and their determination, or that of the majority of them, shall be final and conclusive, whether approving or disapproving the judgment of the Inspector or his Assistant, who shall immediately attend thereto, and mark, or cause to be marked, each and every bale and package of the qualities directed by such determination, according to the provisions of this Chapter; And if the opinion of the Inspector or his Assistant be thereby confirmed, the reasonable costs and charges of such re-examination, to be ascertained and awarded by the said Justice, shall be paid by the proprietor or possessor of the Hops, if otherwise by the Inspector. 22 V. c. 87, s. 15.

Disputes between owners of hops and Inspectors, how to be settled.

Costs.

OFFENCES

OFFENCES AND PENALTIES.

Punishment of Inspectors, &c., for offences against this chapter.

Penalty.

Certain offences to be felony.

Penalty for refusing to inspect, &c.

Penalty for counterfeiting Inspector's marks, &c.

Hiring out brands.

Recovery of penalties.

13. If any Inspector or his Assistant is directly or indirectly concerned in the buying or selling of any Hops, or participates in any transaction or profit arising therefrom (other than the fees or emoluments granted by this Chapter),—or dates any weigh note or bill of inspection differently from the time when the Hops were actually inspected,—or issues the same without any date,—or does not conform to the provisions of this Chapter,—he shall, for every such offence, incur a penalty not exceeding fifty pounds currency, and be for ever thereafter disqualified and disabled from holding the office of Inspector of Hops ;—And every Inspector or Assistant Inspector, or other person, who makes or causes to be made any fraudulent bill of Inspection of Hops, shall be guilty of felony, and shall, upon conviction thereof, be confined at hard labor in the Provincial Penitentiary for any term not exceeding seven years. 22 V. c. 87, s. 12.

14. If any Inspector or his Assistant, not being then employed in the Inspection of Hops, on application on lawful days between sun-rise and sun-set to him made, refuses to receive any Hops, or neglects or delays to proceed in such examination and inspection for the space of three hours after such application so made to him, the said Inspector or his Assistant so in default, shall, for each such offence, forfeit the sum of five pounds current money, to the use of the person so delayed 22 V. c. 87, s. 13.

15. If any person counterfeits any of the aforesaid brand marks or other marks of any Inspection of Hops,—or, without the consent of such Inspector, impresses or brands the same, or any other mark purporting to be the mark of any such Inspector, on any package containing Hops, either with the proper marking tools of such Inspector, or with any counterfeit thereof;—or empties any package of Hops branded or marked by any such Inspector, in order to put therein Hops for sale or exportation, without first cutting out or obliterating any previous brand marks thereon,—or fraudulently packs therein any other Hops or thing than the Hops contained therein when such mark was impressed,—or if any person in the employ of any such Inspector hires or lends out the marking tools of such Inspector to any person whatever, or connives at, or is privy to, any fraudulent evasion of this Chapter, such person committing any of the offences aforesaid, shall, for every such offence, incur a penalty of fifty pounds. 22 V. c. 87, s. 14.

16. Every penalty and forfeiture imposed by this Chapter shall be recoverable by any Inspector or Assistant Inspector of Hops, or any other person suing for the same, in any Court having civil jurisdiction to the amount ; and if such penalty does not exceed ten pounds, the proceedings shall be summary ; and such penalty

penalty or forfeiture shall, on failure of payment, be levied by execution as in the case of debt :

And one moiety of every such penalty and forfeiture, when recovered, shall (except when herein otherwise provided) be immediately paid into the hands of the Treasurer of the Corporation of the City wherein the action or prosecution is brought, for the public uses of the said City, and the other moiety shall belong to the person suing for the same, unless the action is brought by an officer of such Corporation, in which case the whole shall belong to the Corporation for the said uses. 22 V. c. 87, s. 17. Application of penalties.

17. No suit or prosecution for any pecuniary penalty incurred under this Chapter, for any offence against its provisions, shall be commenced after the expiration of two years after the commission of the offence. 22 V. c. 87, s. 18. Limitation of prosecutions.

INSPECTION NOT COMPULSORY.

18. Nothing herein contained shall prevent any person from purchasing or selling Hops without inspection;—but the inspection had in conformity with the provisions of this Chapter, shall be decisive as to the quality and condition of the Hops so inspected. 22 V. c. 87, s. 16. Inspection not to be compulsory.

CAP. LIII.

An Act respecting the Standard Weight of Grain, Pulse and Seeds.

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

Standard Weight of different kinds of Grain, &c.

1. The following shall be the Standard Weights, which in all cases shall be held to be equal to the Winchester Bushel, of the Grain, Pulse or Seeds opposite to which they are set:

Wheat.....	Sixty pounds,	
Indian Corn.....	Fifty-six pounds,	
Rye.....	Fifty-six pounds,	10
Peas.....	Sixty pounds,	
Barley.....	Forty-eight pounds,	
Oats.....	Thirty-four pounds,	
Beans.....	Sixty pounds,	
Clover Seed.....	Sixty pounds,	15
Timothy Seed.....	Forty-eight pounds,	
Buck Wheat.....	Forty-eight pounds.	

16 V. c. 193, s. 2, as amended and extended to Lower Canada by 18 V. c. 15.

Effect of this chapter upon contract.

2. Upon any sale and delivery of any description of Grain, Pulse or Seeds mentioned in this Act, and in every contract for the sale or delivery of any such Grain, Pulse or Seeds, the Bushel shall be taken and intended to mean the Weight of a Bushel as regulated by this Act, and not a Bushel in Measure, or according to any greater or less Weight, unless the contrary appears to have been agreed upon by the parties. 16 V. c. 25 193, s. 3, &c.

What shall be understood by the word "Minot."

3. Upon any sale and delivery of any description of Grain, Pulse or Seeds mentioned in this Chapter, and in every contract for the sale or delivery of any such Grain, Pulse or Seeds, the Minot shall be taken and intended to mean the weight of a Bushel as regulated by this Chapter, and not a Bushel in Measure, or according to any greater or less weight, unless the contrary appears to have been agreed upon by the parties. 18 V. c. 15, s. 2, &c.

This chapter not to affect contracts before certain dates.

4. This Chapter shall not apply to any contract made in Upper Canada before the fifteenth day of June, one thousand eight hundred and fifty-three, or in Lower Canada before the first day of May, one thousand eight hundred and fifty-five. 16 V. c. 193, and 18 V. c. 15.

CAP. LIV.

An Act respecting Incorporated Banks.

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

1. The several Acts incorporating any Banking Institution passed by the Legislatures of either Upper Canada or Lower Canada, before the Union, shall be applicable to the Province of Canada. 4, 5 V. c. 99, s. 2. Acts incorporating Banks to extend to the whole Province.
2. The Directors of any Bank so incorporated, may open and establish Branches or Offices of discount or deposit in any part of the Province. 4, 5 V. c. 99, s. 1. Branch offices may be established.
3. All Promissory Notes or Bills of any Bank incorporated by the Legislature of Upper Canada made payable to order or bearer or intended for general circulation, whether the same issue from the chief place or seat of business of the Bank in Upper Canada, or from any of its branches or offices of discount or of deposit in Lower Canada, shall bear date at the place of issue and be payable on demand at such place of issue in Lower Canada, as well as at the principal establishment in Upper Canada. 4, 5 V. c. 99, s. 3. Bank notes to be dated at the place of issue and to be redeemed there.
4. Every Bank incorporated under any Act of the Parliament of Upper Canada or of Lower Canada or of this Province, may take, hold and dispose of mortgages and hypothèques upon personal as well as real property, by way of additional security for debts contracted to such Bank in the course of its business; and the rights, powers and privileges which any such Bank has or is hereby declared to have or to have had in respect of real estate mortgaged to it, shall be held and possessed by it, in respect of any personal estate which may be mortgaged to it. 13, 14 V. c. 22, s. 1. Banks may hold mortgages on real or personal property.
5. Every such Bank may purchase any lands or real estate offered for sale under execution at the suit of the Bank, so purchasing, or exposed to sale by the Bank under a power of sale given to it for that purpose, in cases where, under similar circumstances, an individual could so purchase, without any restriction as to the value of the lands which it may so purchase, and may acquire a title thereto as any individual purchasing at Sheriff's sale or under a power of sale, in like circumstances, could do, and may take, have, hold and dispose of the same at pleasure. 13, 14 V. c. 22, s. 2. And may purchase property mortgaged to them.
6. Every such Bank may under its existing Charter acquire and hold an absolute title in or to land mortgaged to it in security for a debt due or owing to it, either by obtaining a release of Or may obtain release of the equity of redemption.

of the equity of redemption in the mortgaged property, or by procuring a foreclosure in the Court of Chancery, or by other means whereby, as between individuals, an equity of redemption, can by law be barred. 13, 14 V. c. 22, s. 3.

Or foreclose
the mortgage.

7. Nothing in any Act of Parliament shall be construed as ever having prevented or as preventing any such Bank from acquiring and holding an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell or convey away any lands so mortgaged. 13, 14 V. c. 22, s. 3.

Banks may
issue notes
and notes of a
certain kind
beyond the
amount limited
by their
charters,—on
cert in con-
ditions.

8. Any Chartered Bank in this Province, the total amount of whose Bank Notes of all values to be issued and in circulation at any one time is by its Charter or Act of Incorporation or any Act amending the same, limited to the amount of its paid up Capital,—or the total amount of whose Bank Notes each for less than some assigned sum, to be issued and in circulation at any one time, is by any such Act limited to a certain sum or to a certain proportion of its capital, may issue and have in circulation at any time any further amount of such Bank Notes beyond the amount limited in either of the said cases, not exceeding in either case or in both together, the sum which such Bank then has on hand in gold and silver coin or bullion and Debentures receivable in deposit for registered Bank Notes under the laws for regulating the business of Banking, the value of such Debentures to be reckoned at par; but it shall not be necessary that such coin or bullion or Debentures be deposited with the Receiver-General, or that the Bank Notes to be so issued be registered. 16 V. c. 162, s. 1.—See 19 V. c. 120, s. 30, 30

Duties pay-
able—on what
notes.

9. The duty payable by any Bank under the Act respecting the duty on Bank Notes, shall be paid only upon the sum by which the average amount of its Bank Notes in circulation during any period has exceeded the average amount of the gold and silver coin and bullion and of such Debentures as aforesaid which the Bank has had on hand during the same period. 16 V. c. 162, s. 2.

C A P . L V .

An Act respecting Banks and freedom of Banking.

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

1. The business of Banking shall, for the purposes of this "Banking" Act, mean the making and issuing of Bank Notes, the dealing defined. in gold and silver bullion and exchange, discounting of promissory notes, bills and negotiable securities, and such other trade as belongs legitimately to the business of Banking. 13, 14 V. c. 21, s. 7.
2. The word "Bank" in this Act, shall mean and include "Bank" defined. any Company or person carrying on the business of Banking under this Act, unless such meaning be inconsistent with the context. 13, 14 V. c. 21, s. 7.
3. Any individual, partner, or co-partnership shall be included in the expression "Individual Banker," when it occurs "Individual Banker" defined. in this Act. 13, 14 V. c. 21, s. 8.
4. No person or association of persons, body corporate or politic, except Banks incorporated at the time this Act takes effect by Royal Charter or by Act of the Legislature of this Province or of Lower Canada or of Upper Canada, and thereunto expressly authorized, or such as are authorized under this Act, shall make, issue, sign, draw, indorse, guarantee, or become parties to any Bill, Note, Bon, Check, or promise in writing or undertaking for the payment of What Banks may issue notes. money, or securities for money, or other evidence of debt of any description or form in the nature of a Bank Note or Bill, or intended to pass as money. 13, 14 V. c. 21, s. 2.
5. Every such Instrument valid under this Act, shall be a "Bank Note." "Bank Note" within the meaning of this Act. 13, 14 V. c. 21, s. 2.
6. Every such Instrument with regard to which the provisions of this Act are contravened, shall be an "Unlawful Bank Note." "Unlawful Bank Note." within the meaning of this Act. 13, 14 V. c. 21, s. 2.
7. The signing, issuing, drawing, endorsing, guaranteeing or becoming a party to any instrument as aforesaid, shall be a What is a making, &c. making and issuing within the meaning of this Act. 13, 14 V. c. 21, s. 2.

one dollar

Evidence of intention to issue.

8. The intention to pass any such Instrument as money shall be presumed, if the instrument be made for the payment of any sum less than ~~five pounds~~, and be payable either in form or in fact to the bearer thereof, or at sight, or on demand, or at less than thirty days thereafter, or be overdue, or be in any way calculated or intended for circulation, or as a substitute for money. 13, 14 V. c. 21, s. 2.

"Notes" mean Bank Notes.

9. The word "Notes," when herein used, shall mean Bank Notes, unless such meaning be inconsistent with the context. 13, 14 V. c. 21, s. 2.

"Checks" not Bank Notes.

10. No Check upon any Chartered or other Bank legally authorized to issue Bank Notes, which Check is paid by the maker thereof directly to his immediate creditor, nor any Promissory Note, Bill of Exchange, Check, Note, *Bon* or other undertaking for the payment of money, paid or delivered by the maker thereof to his immediate creditor, shall be deemed a Bank Note if not intended to pass or circulate as such, or to pass into circulation as money. 13, 14 V. c. 21, s. 2.

one dollar / (See French)

What Bank Notes unlawful.

11. Every Bank Note issued in this Province, and being for a less sum than ~~five shillings~~, or made payable otherwise than on demand in current coin of this Province, and at some certain place within this Province, shall be an unlawful Bank Note, although issued by a party authorized to issue Bank Notes. 13, 14 V. c. 21, s. 3.

Penalty for issuing unlawful Bank Notes.

12. Every person who issues, circulates or passes, or attempts to circulate or pass any unlawful Bank Note, shall for every such Note, made, issued, circulated or passed, or attempted to be circulated or passed in contravention of this Act, incur a penalty of ~~one hundred pounds~~, to be recovered with costs by action in any Court having Civil Jurisdiction to the amount, by any party who will sue for the same as well for himself as for the Queen; one moiety of which penalty shall belong to the party suing, and the other half to Her Majesty. 13, 14 V. c. 21, s. 4.

four hundred dollars.

Foreign Banks.

13. No Bank incorporated or having its Chief Office or seat in any country out of Her Majesty's Dominions, shall open or keep any office or place of discount or deposit, or for the issue, circulation or redemption of its Bank Notes within this Province, under a penalty of ~~one hundred pounds~~ for each day on which such office or place is opened or kept open, to be recovered and applied in the same manner as the penalties imposed by the next preceding Section. 13, 14 V. c. 21, s. 5.

Penalty.

four hundred dollars.

Unlawful Notes, &c., void.

14. Every unlawful Bank Note shall be absolutely null and void, and every mortgage, hypothec, deed, bond, note, bill or other security, promise or undertaking, taken or given either directly or indirectly, mediately or immediately, for securing

securing any loan or advance made either wholly or in part in unlawful Bank Notes, and every receipt or discharge given for any sum of money paid in the whole or in part in unlawful Bank Notes, shall be absolutely void. 13, 14 V. c. 21, s. 6.

5 **15.** Every Company and person who lawfully exercises the business of Banking under this Act may take and hold any property *bona fide* mortgaged, hypothecated or pledged to such Company or person as security for debts previously incurred in the course of their lawful dealings as aforesaid, or sold under any Writ, Order or Process of any Court of Law or Equity, and bought at such sale by the Company or person, and may re-sell or otherwise dispose of the same; but except as aforesaid, no such Company or person shall deal in the buying, selling or bartering of goods, wares or merchandize, or engage **15** or be engaged in any trade whatever. 13, 14 V. c. 21, s. 7.

Bank may take mortgages of lands or goods.

87

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16. Every authorized Bank, in addition to such real property as it acquires under this Act, in the course of its dealings in the business of Banking, may also purchase and permanently hold such other real estate as may be necessary for the convenient carrying on of its lawful business at the place where the same is conducted, and may from time to time depart with the same and acquire other real property in its stead at the said place, but the total value of such property shall not at any time exceed the sum of ~~Twelve Thousand Five Hundred~~ **25** ~~Dollars~~ 13, 14 V. c. 21, s. 11.

May hold real estate.

~~fifty thousand~~ fifty thousand dollars

17. Any individual or co-partnership of individuals may at some one City, Town or Village, carry on the business of Banking in this Province, upon complying with the requirements of this Act, but not otherwise. 13, 14 V. c. 21, s. 8.

Banking Companies may be formed.

18. In case the business be carried on by a partnership, the same shall be a general partnership and the individual partners shall be jointly and severally liable as such, and be bound by the laws of this Province in force touching co-partnerships. 13, 14 V. c. 21, s. 8.

Partnerships.

19. Any number of persons, not less than five, may associate themselves together as a Joint Stock Bank, to be conducted at some one place, and at such place only, in Upper Canada, or at some one place, and at such place only, in Lower Canada, such place being in either case, some City, Town or Village, upon the following terms and conditions, that is to say: such persons shall execute articles of agreement, and if the place be in Lower Canada, such articles shall be in Notarial form, but if in Upper Canada, then the articles shall be in duplicate, under the hands and seals of the parties, and such articles in either case shall state: 13, 14 V. c. 21, s. 9.

Joint Stock Banks.

Articles of Association.

1. The name under which the Bank is to be conducted, which shall be the corporate name of the Company ;

Contents of.

2. The place at which the Bank is to be conducted as afore-said ;

3. The whole Capital Stock of the Company, which shall not be less than ~~twenty five thousand pounds~~ ;

one hundred thousand dollars

4. The number of shares into which it is divided, which shall not be so great as to make each share less than ~~ten~~ pounds ;

forty dollars

5. The name and residence of every Shareholder, and the number of shares held by him ;

6. The periods at which the Company is to commence and terminate ;--13, 14 V. c. 21, s. 9.

7. The amount for which each Shareholder is to be liable, beyond twice the amount of his shares--if it be agreed that the liability shall be so extended ; and, 13, 14 V. c. 21, s. 10.

8. Such other provisions and clauses as may be agreed upon.

With regard to the management of the affairs of the Company ;

The election or appointment of the Directors, Cashier or other Manager and Officers, their powers and their terms of office ;

The transfer of shares ;

The division of profits ;

The calling in of instalments on the stock ;

The increasing of the stock by the admission of new Shareholders or otherwise ;

The making of By-laws and the purposes for which they may be made and the penalties which they may impose ;

The manner in which the affairs of the Company shall be settled, and its property disposed of and distributed when the Association terminates ;

And generally, as to the management of the business of the Company and the rights of the Shareholders as between themselves.

To be registered.

20. When a duplicate or Notarial copy (as the case may be) of such articles of agreement has been filed and recorded or registered at length, in Lower Canada, in the office of the Prothonotary of the Superior Court for the District Registry Office for the County in which the place of business of the Company is situate, and in Upper Canada, in the office of the Clerk of the County Court for the County in which the place of business of the Company is situate, the said articles of agreement and the By-laws to be made in pursuance thereof, shall be binding upon all parties thereto, and upon those who (by transfer of shares or otherwise) become Shareholders, upon all others concerned. 13, 14 V. c. 21, s. 9.

And binding.

Translator to
re-examine

21. The said articles shall not be afterwards altered except only in such manner as may be therein expressly provided, and no such alteration shall prejudice the rights of any creditor of the Company which accrued before such alteration, nor shall such alteration, nor any By-law made under the articles, be of any force until the same has been made and filed, and registered or recorded, in like manner as the original articles. 13, 14 V. c. 21, s. 9. Howalterable.

22. Whenever the said articles have been filed and registered or recorded as aforesaid, the parties thereto shall be a body corporate by the name therein mentioned, for the purpose of carrying on the business of Banking under this Act, and they shall have all such rights and powers as are by law vested in Corporations generally, and are not inconsistent with this Act. 13, 14 V. c. 21, s. 10. When to become a body corporate.

23. Any Company formed under this Act, which does not within twelve months from the filing of the instrument, certificate or articles aforesaid, become qualified to make and issue Bank Notes shall be *ipso facto* dissolved, saving the remedy of any of the parties concerned for breach of contract by any other of such parties. 13, 14 V. c. 21, s. 12. When dissolved by delay, &c.

24. Unless otherwise provided in the Articles of Agreement, the Shareholders in every such Company shall be liable for the debts of the Corporation to twice the amount of their respective shares, and no more, that is to say, each Shareholder may, in case of the insolvency of the Company, be compelled to pay to the Receiver herein mentioned, not only the amount of any unpaid instalment on his shares, but also a sum equal to the amount of his shares, or such less sum as may be sufficient to enable the Receiver to pay off all the liabilities of the Association. 13, 14 V. c. 21, s. 10. Liability of Shareholders.
Receiver.

25. The Receiver may recover such sum either from the actual holder of any share, or from any party who held the same within one year next before the appointment of the Receiver. 13, 14 V. c. 21, s. 10. Receiver may sue.

26. Every such prior Shareholder who pays the amount for which he may have been liable as aforesaid, shall have his remedy over against those who held the same shares after him. 13, 14 V. c. 21, s. 10. Right to enforce contribution.

27. No individual Banker shall make or issue Bank Notes, and no Joint Stock Association shall commence the business of Banking, until they have respectively deposited in the hands of the Receiver General for the purposes of this Act, Debentures or other securities to the amount of not less than ~~Twenty~~ ~~Five~~ ~~Thousand~~ ~~Pounds~~, to be reckoned at par, issued by, or the payment of the principal and interest whereof is guaranteed by Deposits with Receiver General to authorize business.
one hundred thousand dollars.

To examine

by the Government of this Province, under the authority of the Legislature thereof, or secured upon the Upper Canada or the Lower Canada Municipal Loan Fund, and bearing interest at the rate of six per centum per annum, or if bearing a less rate of interest, then to a proportionably greater amount. 13, 14 V. c. 21, s. 13--19 V. c. 3, s. 1.

28. The Debentures or securities aforesaid shall be held by the Receiver General in pledge for the due redemption of the Bank Notes of the Bank by which they are deposited, and the interest thereon shall be paid to the Bank as it accrues, except as herein provided. 13, 14 V. c. 21, s. 13,—19 V. c. 3, s. 1.

29. Whenever any Bank has so deposited the required amount of public securities, the ~~Inspector General~~ shall, on the application of the Bank, cause Bank Notes to be struck upon paper, from plates to be furnished by and at the expense of the Bank to an amount not exceeding the amount so deposited, and for such sums respectively not less than Five Shillings, as the Bank requires. 13, 14 V. c. 21, s. 14.

30. The paper shall be selected by the ~~Inspector General~~ and the plates shall be approved of and be kept by him. 13, 14 V. c. 21, s. 14.

31. After such Notes have been numbered and registered and countersigned by the ~~Inspector General~~ or by the Officer or Clerk whom he may authorize to perform that duty, the ~~Inspector General~~ shall deliver them to the Bank, and after they have been signed by the proper Officer or Officers of the Bank, they may be issued and circulated as its Notes. 13, 14 V. c. 21, s. 14.

32. So long as the Bank pays such Notes in specie on demand, they shall be receivable in payment of duties and of all sums due to the Provincial Government. 13, 14 V. c. 21, s. 14.

33. All such Bank Notes shall bear date at the City, Town or Village where the Bank is situate, and shall be made payable to bearer on demand, and they shall be marked on the face thereof as secured by the deposit of Provincial securities, and they shall be held to be payable at the Office of the Bank, and not elsewhere. 13, 14 V. c. 21, s. 14,—19 V. c. 3, s. 2.

34. Any such Bank may from time to time deposit a further amount of such Debentures or Securities as aforesaid, but the amount deposited at any one time shall not be less than Five Thousand Pounds, and the total amount deposited by any Joint Stock Association shall not exceed the capital thereof. 13, 14 V. c. 21, s. 15.

25. Unless when it is to be closed as herein provided, any such Bank may from time to time, withdraw the Debentures or other securities from deposit, on the certificate of the ~~Inspector General~~ that a like amount of the Notes of such Bank has been returned to him, so as the amount withdrawn at any one time be not less than ~~Five Thousand Pounds~~, and the sum remaining deposited be not less than that required, to be deposited before the Bank could commence business. 13, 14 V. c. 21, s. 15. When deposits may be withdrawn.
36. The amount which may be so deposited or withdrawn at any one time, shall always be a certain number of Hundreds of Pounds. 13, 14 V. c. 21, s. 15. £100 at a time.
37. All Bank Notes returned to the ~~Inspector General~~ as herein provided shall be marked as cancelled, in a conspicuous manner by the Bank returning the same but not so as to prevent the identification thereof by the ~~Inspector General~~. 13, 14 V. c. 21, s. 16. Inspector General to mark returned notes.
38. The ~~Inspector General~~ shall keep all such Notes for one year, after which they shall be destroyed. 13, 14 V. c. 21, s. 16. And keep the same for one year.
39. No Bank Notes returned to the ~~Inspector General~~ shall be re-issued by him. 13, 14 V. c. 21, s. 16. Not to be re-issued.
40. In case the Bank afterwards applies for other Notes, new Notes shall be issued. 13, 14 V. c. 21, s. 16. New notes to be issued.
41. New Notes may also be issued by the ~~Inspector General~~ at any time in exchange for worn out and disfigured notes returned to him, the amount presented for exchange at any one time not being less than ~~One Hundred Pounds~~. 13, 14 V. c. 21, s. 16. May be issued in exchange for old.
42. In case any such Bank Note be not paid in specie on demand at the Office of the proper Bank, it may be protested for non-payment, and a copy of the Note and protest may be forwarded to the ~~Inspector General~~, by letter to be delivered at the Office of the Bank by some literate person. 13, 14 V. c. 21, s. 17. Notes not paid may be protested.
43. On receipt of such Note and Protest, the ~~Inspector General~~ shall require the Bank to pay the same, and he shall notify the Bank that if the same, with costs of protest and postage and interest, at the rate of six per cent per annum, from the date of the protest, be not paid within ten days after the delivery of such requisition, he, the ~~Inspector General~~, will close the Bank, and he shall do so, unless he is satisfied that the Bank has a legal defence. 13, 14 V. c. 21, s. 17. Proceedings in case of protest.
Inspector General to notify Bank.

- Affidavit of notice.** 44. The person who delivered the letter to the Bank shall make affidavit before a Justice of the Peace of such delivery. 13, 14 V. c. 21. s. 17.
- When a Receiver may be appointed.** 45. Upon the production of such affidavit of delivery, and if the Bank be still in default, and the ~~Inspector General~~ is not satisfied that it has a legal defence, then by command of the Governor, the Secretary of the Province shall, by letter, appoint a Receiver. 13, 14 V. c. 21, s. 17.
- How Inspector General to close a Bank.** 46. The Bank shall be closed by the ~~Inspector General~~ giving notice in the Government Gazette, and continuing the same inserted during three consecutive weeks, that the Bank is closed. 13, 14 V. c. 21, s. 17.
- Notice and its contents.** 47. The ~~Inspector General~~ shall also state in the said notice that ~~he will redeem~~ the notes of the Bank out of the funds in his hands so far as the same extend, and that a Receiver (naming him) has been appointed for settling the affairs of the Bank, in whom all its property and credits are vested, and to whom all moneys due to the Bank must thereafter be paid on pain of paying the same again to him, and that no contract, act or thing thereafter made or done by the Bank will be valid or binding upon it. 13, 14 V. c. 21, s. 17.
- Effects transferred to Receiver on his being appointed.** 48. Upon the Receiver being appointed as aforesaid, all the money, property, effects and securities, claims and credits of the Bank shall by such appointment, be transferred to him, and the same shall be delivered over to him by the Bank with all the books, papers accounts and documents relating to the business and affairs thereof, and he shall in the name of the Bank, receive, and enforce payment or delivery of all moneys, property, ~~rights, claims~~ and demands which the Bank might otherwise have received, or enforced, and may bring, continue, defend, compromise, discontinue, or otherwise deal with any suit, action or proceeding at law or in equity, as the Bank might have done, and shall be considered as being *ipso facto* substituted for the Bank. 13, 14 V. c. 21, s. 17.
- Penalty on persons not delivering up assets.** 49. Any Banker or any Partner, Associate or Shareholder in the Bank, or any Director, Manager, Officer or Servant of such Banker or Bank, or other person who has been entrusted with any money, property, securities, books, accounts, papers or documents of the Bank in his possession or under his control, and has no legal title to or lien on the same, and does not forthwith deliver them to the Receiver on demand, shall be held to have fraudulently embezzled them, and be punishable accordingly, and the Receiver may recover possession thereof by any means by which a party may recover possession of his property fraudulently embezzled, and he may also proceed against any other party who has possession thereof for the recovery of the same in the usual course of law. 13, 14 V. c. 21, s. 17.
- Receiver may enforce surrender.**

50. The Receiver shall examine into and settle the affairs of the Bank, and shall report thereon from time to time fully to the ~~Inspector General~~ who shall cause the public securities deposited as aforesaid by the Bank, to be sold at such time and in such manner as he thinks most to the advantage of the Creditors of the Bank. 13, 14 V. c. 21, s. 17.

Duties of Receiver in winding up.

51. No interest on such securities shall be paid to the Bank after the closing thereof. 13, 14 V. c. 21, s. 17.

Interest not to be paid to the Bank after its stoppage.

52. The Receiver General shall deliver the said securities to the purchasers on the order of the ~~Inspector General~~. 13, 14 V. c. 21, s. 17.

Disposal of deposits.

53. The proceeds of the sale thereof shall be applied by the Receiver with the other Assets of the Bank, first to the redemption of the Bank Notes, and then to the payment of the other liabilities thereof. 13, 14 V. c. 21 s. 17.

In payment of debts.

54. No other creditor of the Bank shall on any account, or on any plea or privilege of any kind, be paid any part of his claim until the holders of the Bank Notes are paid in full, with interest from the day the Bank was closed. 13, 14 V. c. 21, s. 17.

Holders of notes to be preferred.

55. As soon as the securities have been sold, if the proceeds of the sale, either alone or with other funds of the Bank in the hands of the Receiver be sufficient to redeem the outstanding Bank Notes, the Receiver, shall give notice that he is ready to redeem the same in full, or if such proceeds and funds be insufficient for that purpose, then, that he is ready to pay as much in the ~~pound~~ on the Bank Notes as the funds in his hands will allow, and so from time to time until they be redeemed in full, or until the Assets of the Bank be exhausted; and he shall give the holders of any Bank Notes paid in part, a certificate stating the facts, and they shall receive as much more as the funds in his hands will admit. 13, 14 V. c. 21, s. 17.

Duties of Receiver.

dollars

56. If any Bank Notes known to be outstanding be not presented, the Receiver shall reserve sufficient funds in his hands for the payment thereof. 13, 14 V. c. 21, s. 17.

Reserve to meet outstanding notes.

57. In case there be any surplus after paying the holders of Bank Notes, the same shall be distributed among the other creditors of the Bank according to their respective privileges and rights. 13, 14 V. c. 21, s. 18.

Disposal of surplus.

J. B. / Translated / Examine.

58. All claims upon the Bank shall, with the evidences of such claims, or copies of such evidences and all the particulars thereof, be filed with the Receiver within one year from the closing of the Bank. 13, 14 V. c. 21, s. 18.

Time for preferring claims.

Receiver to convert assets into money.

59. The Receiver shall, to the best advantage, sell and dispose of all the property real and personal, and all securities and claims of the Bank which cannot be collected or realized in money within one year from the closing of the Bank, and he may convey the same to the purchasers. 13, 14 V. c. 21, s. 18.

To prepare periodical statements.

60. The Receiver shall, at some time not less than six months nor more than one year after his appointment, make out a schedule showing the Assets which have come into his hands,—the expenses incurred and the sums paid for the redemption of Bank Notes,—the sum remaining in his hands, and the unpaid liabilities of the Bank, so far as known to him,—and showing also the manner and proportion in which, in his opinion, the remaining sum ought to be distributed among the unsatisfied creditors of the Bank according to their respective rights; and he shall file such schedule in the office of the Circuit or County Court of the Circuit or County in which the business of the Bank had been conducted. 13, 14 V. c. 21, s. 18.

Proposed dividends.

61. The Receiver shall apply to the Judge, or to one of the Judges of such Court, to appoint a day (not being more than twenty nor less than ten days after such application) when the said statement will be taken into consideration; and he shall give notice of such day and of the purpose thereof, in such two newspapers, at such intervals, and during such time as the Judge appoints. 13, 14 V. c. 21, s. 18.

How to be considered.

62. The schedule shall lie open to the inspection of all parties interested at the office of the Court, and at the Bank during office hours, until the day so appointed; and until within ten clear days of the said day, any party who, before the date of the schedule, had filed his claim with the Receiver, may file in the office of the Court, and serve upon the Receiver, a notice of any objection he may have to the statement or to any part thereof, stating clearly and in ordinary language, words and figures, the reasons of such objections and the evidence (if any) which he proposes to adduce in support thereof. 13, 14 V. c. 21, s. 18.

Schedule to be open to inspection.

Powers of the Judge who is to adjudicate.

63. On the day so appointed, or on any day or days to which the Judge may adjourn the matter, he or any other Judge who may sit in Court to adjudicate upon the matter, shall in a summary manner hear the parties objecting, and the Receiver, and shall determine upon the merits of the objections, and confirm or amend the schedule in such manner as he deems most consistent with the rights of the parties respectively. 13, 14 V. c. 21, s. 18.

Appeal from his decision.

64. In case the amount in which any party is interested be sufficient, then upon his giving the security required by law on appeals

? as to appeal in L.C.

appeals from the said Court, such party may within six clear
judicial days next after the schedule has been confirmed
or amended, appeal from the decision of the Judge as
to the whole or any item of the schedule as confirmed and
amended, to the Superior Court in Lower Canada, or to the
Court of Queen's Bench or Common Pleas in Upper Canada,
(as the case may be), in the manner provided with regard to
appeals from other decisions of the Court appealed from, and
the decision of the Court appealed to shall be final, whatever
be the amount in question. 13, 14 V. c. 21, s. 18.

65. The costs, or any portion thereof, may in the discretion ^{Costs.}
of the Judge or Court, be awarded against any party or be
ordered to be paid by the Receiver out of any other moneys
then or thereafter in his hands, or be deducted *pro rata* from
the sums to be paid to the claimants, or any of them. 13, 14
V. c. 21, s. 18.

66. The Receiver may however, pending the appeal, pay to ^{Payments}
the parties mentioned in the schedule respectively, so much of pending ap-
peal.
the sums therein allotted to them as cannot be affected by the
decision in appeal. 13, 14 V. c. 21, s. 18.

67. The like proceedings shall be taken and with like effect ^{Successive di-}
whenever the Receiver has further moneys in his hands for ^{vidends.}
distribution; but no such schedule shall be filed at a less in-
terval than three months from the filing of that next preceding
it, nor for the distribution of a less sum than ~~Two Thousand~~
~~Five Hundred Pounds~~, unless it be the final one. 13, 14 V. c.
21, s. 18.

68. The Receiver, if he deems it beneficial to the interests ^{Investment of}
of the creditors of the Bank, may invest in Provincial securi- ^{assets at in-}
ties, bearing interest, any of the Assets of the Bank which will ^{terest.}
probably be more than three months in his hands. 13, 14 V.
c. 21, s. 19.

69. Every Receiver shall obey the instructions of the ^{Receiver to}
~~Inspector General~~, touching the safe keeping and deposit in ^{obey Inspector}
any Bank, or with any public officer, of any moneys in his ^{General.}
hands as Receiver, until the same are required for the pur-
poses of this Act. 13, 14 V. c. 21, s. 20.

70. Every Receiver shall give security to Her Majesty in ^{To give secur-}
each sum, manner and form as the Governor directs, for the ^{ity.}
due accounting for and payment of all moneys coming into his
hands to all persons entitled to receive the same. 13, 14 V. c.
21, s. 20.

71. The allowance to be made to the Receiver shall be ^{Allowance to.}
fixed by the Governor in Council, and any permanent officer of
the Government may be appointed a Receiver, and the same
person

person may act as such with regard to more than one Bank, and he may have all necessary Assistants and Clerks. 13, 14 V. c. 21, s. 20.

Removeable. 72. Every Receiver shall be removeable by the Governor at pleasure, and the successor appointed in case of his death or removal, shall be substituted for him with all the same rights and powers, and may continue and complete any suit, proceeding or matter which the former Receiver had begun, and he may demand from such former Receiver if living, or from his personal representatives if dead, all the moneys, property and effects which are or were in his hands. 13, 14 V. c. 21, s. 20.

Default of Receiver when penal. 73. Every Receiver, or his personal representative, failing to pay or deliver over to his successor or to any person lawfully entitled to receive the same, any such moneys, property or effects, shall be held to have embezzled the same, as being the property of Her Majesty, and possession thereof may be recovered by such successor, and the former Receiver or his representatives, may be dealt with accordingly, without prejudice to any remedy of a civil nature by the Crown or by any other party against him or his sureties. 13, 14 V. c. 21, s. 20.

Officers to cease when Bank closed. Except, &c. 74. The engagement and salary of every Clerk and Officer of a Bank shall terminate on the closing of the Bank, but any of them may with the consent of the ~~Inspector General~~ be employed by the Receiver to assist him. 13, 14 V. c. 21, s. 21.

n **Where office of Receiver to be kept.** 75. The office of the Receiver shall, for three months next after the closing of the Bank, be kept in the office of the Bank, but after that time it may be kept in such other place as he may appoint with the approval of the Governor. 13, 14 V. c. 21, s. 21.

When Banks to be closed for not paying off judgments. 76. If any judgment against such Bank remains unsatisfied for more than three months after the rendering thereof, and no appeal from the judgment is pending, the Bank may be closed, a Receiver may be appointed and other proceedings had, as provided in this Act. 13, 14 V. c. 21, s. 22.

When to be closed in pursuance of articles or of agreement. 77. Whenever it is intended to close the Bank by lapse of time, by the voluntary act of the individual Banker, or by agreement among the partners, or associates, or Shareholders in accordance with the articles of agreement, the following proceedings shall be taken: 13, 14 V. c. 21, s. 23.

How to proceed. 1. The Bank shall, after nine tenths of all its Bank Notes have been redeemed and returned to the ~~Inspector General~~
Give public notice in such manner and during such time as the ~~Inspector General~~ appoints calling in its Bank Notes and

and requiring them to be presented at the office of the Bank for payment on or before a day to be named in the notice, not more than one year nor less than six months from the date thereof, and stating that all such Notes as are not so presented will, after the said day, cease to be secured by the deposit of Provincial securities ;

2. And after the expiration of such day, and upon the delivery to the ~~Inspector General~~, of all the Notes that have been so presented, and upon security being given by recognizance in his name and to his satisfaction that all the Notes then outstanding, and which may within two years from the giving of such security, be presented for payment at some certain place to be named in the recognizance, within the limits of the City, Town or Village where the business of the Bank has been conducted, will be then and there redeemed in current money—the ~~Inspector General~~ shall issue his Certificate to the Receiver General for the delivery to the Bank of the remaining one tenth of the Provincial securities deposited in his hands, and the Bank may then be closed.

78. The holder of any Bank Notes presented as provided in such recognizance, and not paid, may recover the amount thereof with interest from the date of presentation and costs, from the cognizers, by action on such recognizance. 13, 14 V. c. 21, s. 23. Remedy of holder of notes.

79. Every Bank formed under this Act shall, whether the partners, associates or shareholders therein are or are not jointly and severally liable, keep constantly and conspicuously exposed and accessible to the public in the office of the Bank, a correct list of all the partners, associates and shareholders therein with their places of residence, and if the liability of all or any of them are or is limited, such list shall also shew the amount of the liability of each ; and the Bank shall keep in its office open for public inspection, copies of their articles of agreement and of the instrument filed as herein required. 13, 14 V. c. 21, s. 24. Names of Shareholders to be exhibited.

80. Every such Bank shall on the payment of the sum of ~~seven pence half penny~~ deliver to any person applying for the same a copy of such list and of such articles or instrument (if any there be) signed and certified as correct by some partner, associate, officer or person thereunto authorized by the Bank and stated so to be ; and every such copy shall on proof of the signature thereto be *prima facie* evidence that the signer was authorized as aforesaid, and of the truth of the contents. 13, 14 V. c. 21, s. 24. And copies given if desired.

81. For contravention of either of the next two preceding sections on any day, the Bank shall incur a penalty of ~~one~~ ^{one} hundred pounds, and the repetition of such contravention on any Penalty for neglect.

any other day shall constitute a new offence entailing a like penalty. 13, 14 V. c. 21, s. 24.

Banks to be offices of discount and deposit.

82. The office of every Bank established under this Act kept at the place where the business is to be or is conducted, shall be *bona fide* an office of discount and deposit as well as for issuing and redeeming the Notes of the Bank. 13, 14 V. c. 21, s. 25.

Shares to be personal property.

83. The share in any Joint Stock Bank shall be personal property, and shall be liable to attachment, seizure and sale, under the provisions of any Act respecting the seizure and sale of Shares in the Capital Stock of incorporated Companies. 13, 14 V. c. 21, s. 26.

Transfer of shares.

84. Every transfer of shares shall, as to Banks in Upper Canada, be made in duplicate, one of which shall be deposited in the office of the Bank, and the other filed in the office of the County Court of the County in which the business is carried on, and as to Banks in Lower Canada, such transfers shall be made in triplicate, one of which shall be deposited in the office of the Bank, one in the office of the Superior Court, within whose Jurisdiction such Bank is carried on, and one in the Registry office of the County in which the Bank is situate, and until such transfers be so deposited and filed, the transfer shall not affect any third party. 13, 14 V. c. 21, s. 26.

Liabilities not to exceed a certain amount.

85. The total liabilities of any Joint Stock Bank shall never exceed three times the amount of its capital under a penalty of ~~one hundred pounds~~ for each day such excess continues and the Directors in office at the time of such excess shall be jointly and severally liable in their private capacity for all liabilities of the Bank contracted while such excess continues including the day on which it first accrued. 13, 14 V. c. 21, s. 27.

Consequences if exceeding.

86. Any such excess shall be a sufficient ground at any time for the ~~Inspector General~~ to cause the books of the Bank to be examined as herein provided. 13, 14 V. c. 21, s. 27.

Dividends.

87. Every dividend to be made by any Joint Stock Bank shall be out of its clear profits only, and no dividend shall be made whereby its capital may be impaired, nor until after the allowance of a reasonable sum for bad or doubtful claims. 13, 14 V. c. 21, s. 28.

Unclaimed dividends.

88. Every Bank under this Act, shall advertise any unclaimed dividends or Stocks of the Bank in such manner as the ~~Inspector General~~ from time to time directs. 13, 14 V. c. 21, s. 29.

Monthly statements to be

89. Every Bank under this Act shall, on the first day of each month in every year (not being a Sunday or Holiday,) make

make up to and bearing date upon the evening of the last day of the preceding month (not being a Sunday or Holiday,) and shall transmit to the ~~Inspector General~~, a full and clear statement of the Assets and Liabilities of the Bank on the day of the date thereof, shewing as clearly as the same can be shewn, without mentioning individual names and accounts, the true state of the affairs of the Bank; and also the following particulars in addition to any which the ~~Inspector General~~ may require: 13, 14 V. c. 21, s. 30,—14, 15 V. c. 69, s. 1.

made to the
Inspector Ge-
neral.

- 10 *First.*—The amount of Stock invested and secured by deposit of Debentures; Contents of.
- Second.*—The value of the Real Estate of the Association, specifying what portion thereof is occupied for their business;
- 15 *Third.*—The shares of Stock held and the number and value held by each Member;
- Fourth.*—The debts owing to the Association or Banker, and the particulars thereof;
- Fifth.*—The debts owing by the Association or Banker and the particulars thereof;
- 20 *Sixth.*—The amount of claims against the Association or Banker not acknowledged as debts;
- Seventh.*—The amount for which the Association or Banker is bound as surety or contingently liable, whether on policies of insurance or otherwise;
- 25 *Eighth.*—The amount of Notes in circulation, of loans and discounts and of specie on hand;
- Ninth.*—The amount of the same on the first of July last preceding;
- 30 *Tenth.*—The amount of losses sustained, and whether charged on the capital or profits since last statement, and of the dividends declared and made;
- Eleventh.*—The amount of Debentures deposited with the Receiver General.
- Twelfth.*—How the sums due to the Bank are secured;
- 35 *Thirteenth.*—What part thereof is due to the Bank by Directors or General Partners or is secured by their endorsement or otherwise; and
- Fourteenth.*—What proportion thereof (if any) may be considered bad or doubtful. 13, 14 V. c. 21, s. 30,—14, 15 V. c. 69, s. 1.

To be attested, &c. **90.** Such statement shall be attested by the oath, before some Justice of the Peace, of two persons, one being the Banker or one of the general partners, or the President, Vice-President or other functionary, for the time being, at the head of the Association, and the other the Cashier, Book-keeper, or other chief officer of the Bank for the time being, having charge of the books, papers and money of the Bank, and the ministerial management of its business; each of whom shall swear distinctly; 13, 14 V. c. 21, s. 30,—14, 15 V. c. 69, s. 1.

Purport of oath. **1.** That he has such quality or office as aforesaid;
2. That he has had the means of verifying and has verified the statement aforesaid, and found it to be exact and true in every particular;
3. That the property of the Bank has been set down at its true value to the best of his knowledge and belief; and
4. That the allowance made for bad and doubtful claims is, as he verily believes, ample and fair. 1b.

To be published. **91.** Every such statement shall be published by the ~~Inspector General~~ in such a manner as he thinks most conducive to the public good. 13, 14 V. c. 21, s. 30.

\$ 100

Penalty for neglect. **92.** In case any Bank neglects to transmit such statement in due course of post, within five days, after the day to which it is to be made up, it shall incur a penalty of ~~twenty-five~~ ten pounds for every day such neglect continues. 13, 14 V. c. 21, s. 30.

In case of default Inspector General may close the Bank. **93.** In case the statement be not transmitted within one month after the said day, or if it appears by the statement that the Bank is insolvent, the ~~Inspector General~~ may close the Bank, and proceedings shall then be had in all respects as when a Bank is closed for other causes. 13, 14 V. c. 21, s. 30.

What he is to do if statement distrusted. **94.** In case the ~~Inspector General~~ suspects such statement to be wilfully false, he may depute some competent person to examine the books and enquire into the affairs of the Bank, and report to him on oath, and if it appears by such report that such statement was wilfully false or that the Bank is insolvent, or if the person so deputed reports on oath that he has been refused such access to the Books or such information as would enable him to make a sufficient report, the ~~Inspector General~~ may close the Bank, and proceedings shall be had thereupon as aforesaid. 13, 14 V. c. 21, s. 30.

When private account is not to be divulged. **95.** In case the report is satisfactory, the information obtained by the person so deputed as to the particular account of any party with the Bank, shall not be divulged. 13, 14 V. c. 21, s. 30.

96. In any of the cases in which discretionary power is given to the ~~Inspector General~~ to close a Bank, he may forbear to do so until he has afforded it an opportunity of making any necessary explanation. 13, 14 V. c. 21, s. 30.

What discretion ~~Inspector General~~ may exercise.

97. The expenses of carrying this Act into effect shall be borne by the Banks established under it; but such part of the expense as is directly incurred for or on account of any particular Bank shall be paid by it, and the remainder shall be yearly apportioned upon the several Banks in proportion to the amount of Bank Notes issued to each. 13, 14 V. c. 21, s. 31.

Expenses to be borne by Banks.

98. The share of expenses payable by any Bank may, if not sooner paid, be deducted by the certificate of the ~~Inspector General~~ from the interest of the Provincial securities deposited by it in the hands of the Receiver General. 13, 14 V. c. 21, s. 31.

May be retained by Receiver General.

99. In case any Bank is closed by the ~~Inspector General~~, all the expenses payable by the Bank shall be paid out of the Assets thereof in preference to any other claim. 13, 14 V. c. 21, s. 31.

If Bank closed expenses to be first paid.

100. The fees to be taken by the Clerk of any Superior or County Court or any Registrar, shall be for filing and recording or registering any Instrument under this Act, and Certificate thereof, ~~seven shillings and six pence~~, and ~~six pence~~ per hundred words in such Instrument and Certificate; and for the like services, as to the transfer of any share or shares, ~~two shillings and six pence~~, and ~~six pence~~ per hundred words. 13, 14 V. c. 21, s. 32.

Fees to be taken by officers of Courts &c.

Prothonotary

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101. Any of the Incorporated Banks in this Province existing on the tenth day of August 1850, may deposit Provincial securities in the hands of the Receiver General, and obtain registered notes to the amount so deposited from the ~~Inspector General~~, marked as being secured by deposit as aforesaid, which being afterwards signed by the proper functionaries of such Incorporated Bank, shall be Bank Notes thereof and may be circulated, with the same privileges and advantages as other Bank Notes registered under this Act or the Act for which this Act is substituted. 13, 14 V. c. 21, s. 33.

Special provision respecting Banks existing on the 10th August, 1850.

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102. The provisions of this Act relative to the preparation and delivery of registered notes by the ~~Inspector General~~ and the payment of the expenses attending the same, shall apply to those delivered by him to any Bank that was incorporated before the 10 August 1850, but none of the other provisions of this Act shall extend or be deemed applicable to any such Bank. 13, 14 V. c. 21, s. 33.

Expenses of notes delivered to such Banks.

tenth day of

103.

~~Para. - The 14, 15 V. c. 70, relating to the same subject, is supposed to be void. No Order in Council granted under it can be found.~~

- When holders of registered notes to have priority.** **103.** In case of the failure of any such Incorporated Bank obtaining Registered notes as aforesaid, the holders of such notes shall be paid out of the proceeds of the debentures securing such notes and of any dividend or interest accruing thereon after such failure, in preference to any other creditor whatever of the Bank. 13, 14 V. c. 21, s. 33.
- Exemption from duties.** **104.** No duty shall be payable on Bank Notes secured by the deposit of Provincial securities under this Act. 13, 14 V. c. 21, s. 34.
- Amendments of this Act may be made.** **105.** No amendment of this Act, nor any declaratory enactment applying indiscriminately to all similar cases, which may be made as to the meaning of this Act, or any enactment which may be made for giving full effect to its provisions or any of them, shall be deemed an infringement of the rights of any party, although the same may incidentally affect pending cases, or Banks established before the passing of the amending or declaratory Act. 13, 14 V. c. 21, s. 35.
- The Governor in Council may instruct Inspector and Receiver Generals.** **106.** The Governor in Council may from time to time make regulations for the governance of the ~~Inspector General~~ and of all Receivers and Officers to be appointed under this Act in the performance of the duties assigned to them. 13, 14 V. c. 21, s. 35.
- Courts may make rules—tariff of fees, &c.** **107.** The Courts to whom any jurisdiction is assigned by this Act may make rules of practice and tariffs of fees with regard to all proceedings to be adopted in carrying such jurisdiction into effect. 13, 14 V. c. 21, s. 35.
- General statements of all Banks to be laid before the Legislature of each Session.** **108.** A general statement of the Banks established under this Act, or under the Act for which this Act is substituted, their capital, circulation, liabilities, and such other particulars respecting them as may be required to shew the operation of this Act, and an account of the expenses incurred in carrying it into effect, shall be laid before the Legislature within thirty days after the opening of each Session thereof. 13, 14 V. c. 21, s. 36.
- Banks not to take more than 7 per cent. per annum.** **109.** No Bank incorporated by any Act of the Legislature of this Province, or of the late Provinces of Upper or Lower Canada respectively, or by Royal Charter, and no Bank established under the provisions of the Act of the Legislature of this Province, passed in the Session thereof, held in the thirteenth and fourteenth years of Her Majesty's Reign, intitled, for other purposes relative to Banks and Banking, or after this Act takes effect, established under this Act, shall stipulate to take, reserve or exact a higher rate of discount or interest than seven per centum per annum: and any rate of interest not exceeding seven per centum per annum may be received and taken 13, 14 V. c. 21.

* Translators

taken in advance by any such Bank ; and any such Bank may allow and pay any rate of interest whatsoever upon moneys deposited in such Bank. 22 V. c. 85, s. 3.

5 **110.** No Bank or Banking Institution, carrying on bu- Rates of pre-
 10 siness as such in this Province, in discounting at any of its places or seats of business, branches, agencies or offices of discount and deposit, any note, bill or other negotiable security or paper payable at any other of its own places or seats of business, branches, agencies or offices of discount and deposit within this Province, shall receive or retain in addition to the discount any amount exceeding the following rates per centum, according to the time it has to run, on the amount of such note, bill or other negotiable security or paper, to defray the expenses attending the collection of such bill, note or other negotiable security or paper, that is to say, under thirty days, one-eighth of one per cent., thirty days and over but under sixty days, one-fourth of one per cent., sixty days and over but under ninety days, three-eighths of one per cent., ninety days and over, one-half of one per cent. 22 V. c. 85, s. 4.

premium on notes discounted elsewhere than where made payable, limited.

20 **111.** Nothing in the two last preceding sections of this Act shall apply to any Corporation, or Company, or Association of persons, not being a Bank, authorized by law before the sixteenth August, one thousand eight hundred and fifty-eight, to lend or borrow money. 22 V. c. 85, s. 6, and see Post c. 58.

Act not to apply to certain Associations.

C A P . L V I .

An Act respecting "Savings Banks".

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

- 7*
- Savings Banks how established.** 1. Any number of persons may associate themselves for the purpose of establishing a Savings Bank in any one place in this Province under this Act, for which purpose such persons shall execute an Instrument before Notaries, if the Bank is to be in Lower Canada, and under their hands and seals, and in duplicate, if the Bank is to be in Upper Canada, which Instrument shall set forth : 18 V. c. 96, s. 2.
- Contents of Instrument.** 1. The Corporate name to be taken by the Institution, of which the words "Savings Bank" shall always form part ;
2. The place at which its business is to be carried on ;
3. Its Capital Stock which shall in no case be less than ~~one hundred thousand pounds currency~~ *one hundred thousand dollars* ;
4. The number of Shares into which such Stock is to be divided, and the amount of each Share, which shall in no case be less than ~~one hundred pounds currency~~ *four hundred dollars* ;
5. The number of shares taken by each of the persons executing such Instrument, and the names, residence, profession, *20* calling or addition of each of such persons ;
6. The persons who shall be the Directors of the Institution until the first election of Directors, and which of them shall be President ;
7. The period during which such Institution is to continue, *25* which shall not be less than five years, nor more than thirty years, and shall be made to end on the thirtieth day of April in some year to be named in such Instrument ;
8. Such further provisions as to the working of the Institution and the management of its affairs and business, in matters not provided for by this Act, as the persons executing such Instrument may think expedient, which provisions, not being inconsistent with the letter or spirit of this Act or the laws of this Province, shall be fundamental Rules of the Institution, and shall not be altered ; and any such provision inconsistent with the letter or spirit of this Act, or with the laws of this Province, shall be void, but shall not affect the validity of the Instrument of Association in other respects. *30*
- 9.*

Prothonotary
dollars

2. No person shall be named as a temporary Director as aforesaid who does not hold at least ~~five hundred pounds~~ of the Stock of the Institution. Qualification of Directors

3. No person shall be deemed a Shareholder in any such Savings Bank, nor shall his name be entered in the list of Shareholders as one of them, or the stock he may have agreed to take be reckoned as part of the Capital Stock of any such Savings Bank, until he has justified his sufficiency on oath or affirmation in the following form, before some Judge of one of the Superior Courts of Law in this Province, or some County or Circuit Judge, who is hereby empowered to administer such oath: 18 V. c. 96, s. 2. Of Shareholders.

X

15 " I, A. B. solemnly swear (or affirm) that I am now possessed of and own to and for my own use and benefit, and over and above all my just debts, property of the value of (here insert the amount of stock of which the Defendant is the subscriber or transferee.)" Oath of.

(Signature) A. B.

20 4. Such oath or affirmation shall be signed by the Deponent and attested by the Judge, who shall deliver a certificate thereof to the party making the same, and the original shall be kept among the Records of the Court of which he is a Judge. 18 V. c. 96, s. 2. How oath to be disposed of.

25 5. No transfer of Stock shall be valid so as to relieve the party making it from liability to any Depositor, until such oath or affirmation has been made. 18 V. c. 96, s. 2. No transfer without such oath.

30 6. If such Instrument relates to a Savings Bank in Lower Canada, a Notarial Copy thereof shall be deposited of record in the office of the Prothonotary of the Superior Court for the District in which the Bank to which it relates is to be established,—and if such Instrument relates to a Savings Bank in Upper Canada, a duplicate thereof shall be deposited of record in the office of the Clerk of the County Court of the County or of the United Counties within which the Bank to which it relates is to be established, the execution thereof by the several parties thereto being attested on oath by at least one witness before the said Clerk. 18 V. c. 96, s. 3. Proceedings in case of Savings Banks in Lower Canada.

and U.C.

35 7. Every such Instrument so deposited of record, as well as the Certificates of the Receiver General of the deposit or withdrawal of money or Debentures as hereinafter provided, shall be open to the inspection of any person during office hours, on payment of a fee of ~~one shilling~~ to the Officer having the custody thereof, who shall furnish any person with a certified copy thereof, on payment of a fee equal to ~~six pence~~ ~~one penny~~ for each hundred words in such copy, and in the certificate thereto. 18 V. c. 96, s. 3. Instrument, &c., to be open to inspection.

\$ 0.20
0.10

Prothon

- Copies to be evidence.** **8.** Any such copy so certified, shall be *prima facie* evidence of such Instrument, and of the contents thereof, without proof of the Signature of the Officer certifying such copy. 18 V. c. 96, s. 3.
- Copies to be kept at the Bank—open to inspection.** **9.** A certified copy of such Instrument and of the certificates of the Receiver General relating to the same Bank, shall be constantly kept at the place of business of the Bank to which they relate, and shall be open to the inspection of all depositors therein. 18 V. c. 96, s. 3.
- When to become incorporated.** **10.** Upon the deposit of any such Instrument with the proper Prothonotary or Clerk, and the deposit with the Receiver General of the amount hereinafter mentioned, the parties thereto, and their successors, shall, during the term herein limited, be a body politic and corporate by the name herein in taken, by which name they may sue and be sued, and shall have and exercise the powers vested in corporate bodies by the Interpretation Act, except in so far as they are modified by this Act, and all such powers as may be necessary for fully and conveniently carrying out the provisions of this Act. 18 V. c. 96, s. 4.
- Previous proceedings required.** **11.** Before any Savings Bank intended to be established under this Act shall be entitled to the benefit thereof, the Directors shall deposit with the Receiver General, a certified copy of the Instrument of Association, and a sum not less than one eighth nor more than one fourth of the Capital of the Bank, in money or in Debentures receivable in deposit for registered Bank Notes, under the laws regulating the business of Banking, or partly in money and partly in such Debentures, the value of such Debentures being reckoned at par, and the Receiver General shall grant a Certificate of such deposit in duplicate, one of which duplicates shall be deposited in the office of the Prothonotary or Clerk in whose office the Instrument of Association is deposited, and the other shall remain in the office of the Bank. 18 V. c. 96, s. 5.
- Certain deposits to remain with the Receiver General.** **12.** The money or Debentures, or both, so deposited, shall, subject to the provisions hereinafter made, remain in the hands of the Receiver General, as security for the repayment to the Depositors, of the sums deposited by them, with the interest due thereon; But the interest on such Debentures and interest on the money so deposited, at the rate allowed at the same period on the special Debentures hereinafter mentioned, shall be paid over by the Receiver General to the Bank, on behalf whereof such money or Debentures were deposited, except in the case hereinafter provided for. 18 V. c. 96, s. 5.
- May be increased; when.** **13.** The sum so deposited by the Directors, if originally less than one fourth the Capital of the Bank, may be increased at any time by one or more deposits to any sum not exceeding one

\$20,000.00

one fourth of the Capital, or may be diminished to any sum not less than one eighth of the Capital, by the Bank's withdrawing one or more sums, after giving three months' notice to the Receiver General of the intention to withdraw the same: Provided *Firstly*, that the sum deposited or withdrawn at any one time shall not be less than ~~five thousand pounds~~; *Secondly*, that no sum shall be withdrawn until the Receiver General is satisfied that all the requirements of this Act have been so far complied with, as to authorize such withdrawal; and *Thirdly*, that a certificate of the deposit of any sum under this section shall be granted in duplicate by the Receiver General to the Bank, and such duplicates shall be deposited in the same manner as the duplicates of the original certificate of deposit,—and that a certificate of the withdrawal of any sum, shall in like manner be granted in duplicate, and one duplicate shall be delivered to the Bank to remain in the Office thereof, and the other shall be transmitted by the Receiver General to the Prothonotary or Clerk in whose Office the Instrument of Association is deposited, and shall there remain of record, so that all persons may at any time ascertain what sum belonging to the Bank is in the hands of the Receiver General. 18 V. c. 96, s. 6.

14. Any Savings' Bank established under this Act may at any time assign or grant a lien upon the money or Debentures in the hands of the Receiver General and belonging to such Bank, but such assignment or lien shall be subject to the rights of Depositors in the Bank, and shall take effect so far only as such money or Debentures are liable to be withdrawn by and delivered to the Bank. 18 V. c. 96, s. 7.

A lien may be granted on deposit with Receiver General.

15. The Receiver General being duly notified of such assignment or lien, shall deliver the money or debentures to the party holding the lien or assignment, instead of delivering the same to the Bank. 18 V. c. 96, s. 7.

Duty of Receiver General in such event.

16. Upon compliance with the foregoing requirements, any Savings' Bank may commence its business as such, and subject to such regulations as to the deposit and withdrawal of moneys by Depositors as are from time to time made by the By-laws of the Bank, such Bank may receive deposits from any persons or parties whatever, not exceeding ~~five hundred pounds~~, by any one person or party, at any one time, and may allow to such Depositors such rate of interest as may from time to time be fixed by the Governor in Council, and no more. 18 V. c. 96, s. 8.

When Banks may commence business.

Five thousand dollars

17. The amount due to Depositors at any one time shall never exceed six times the sum belonging to such Bank deposited in the hands of the Receiver General, nor shall it ever exceed the Capital of the Bank. 18 V. c. 96, s. 8.

Amount due to depositors limited.

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Rate of interest to depositors.

18. The rate of interest to be allowed to Depositors shall be such as may from time to time be fixed by order of the Governor in Council, but such rate may at any time be altered by an order in Council subsequently made and published in the *Canada Gazette*, at least six months before the alteration is to take effect. 19 V. c. 96, s. 9.

Investment of deposits.

19. The moneys received in deposit may be invested in any Debentures which might, under the laws regulating the business of Banking be received by the Receiver General in deposit for registered Bank Notes, or in the manner mentioned in the next following section, and such moneys shall not be invested, lent, dealt with, or used in any other manner or way whatever, except only that they may be deposited in any of the Chartered Banks of this Province, at interest or without interest, but subject always to be at any time drawn out by check and without previous notice. 18 V. c. 96, s. 10.

Deposits with Receiver General.

20. The Receiver General may directly, or through any Agent he may appoint for the purpose, receive from any such Savings Bank, any sum of money arising from deposits in such Bank not being less than ~~one hundred pounds~~ at one time, and may grant for the same, Special Debentures for not less than ~~five pounds~~ each, bearing interest payable half yearly at a rate exceeding by two per cent, the rate of interest then fixed by order in Council, as that to be allowed by Savings Banks to Depositors; and such Debentures may, in the discretion of the Receiver General, or in conformity with such orders as he from time to time receives from the Governor, be made payable solely to the Bank, and not transferable. 18 V. c. 96, s. 11.

\$ 400.
\$ 200.

Yearly meeting of Stockholders to elect Directors.

21. On the first Monday in May in each year, the Stockholders of each such Savings Bank, shall hold a General Meeting at the Office of the Bank, and shall then and there elect five persons, being Stockholders in the Bank to the extent of at least ~~one thousand pounds~~ each, to be Directors of the Bank, in place of the Directors then in office, who shall go out of office immediately upon the close of such election, unless re-elected (as they may be) thereat. 18 V. c. 96, s. 12.

\$ 4000

Qualification of Directors.

Omission to hold meeting provided for.

22. If from any cause the meeting be not held on the day hereby appointed, or five Directors be not elected thereat, the Directors in office, immediately before such day, shall remain in office until another General Meeting is held and five Directors have been elected, and a General Meeting may be held for this purpose at any time under the By-laws in force in that behalf. 18 V. c. 96, s. 12.

How vacancies in Directors filled.

23. If any vacancy occurs in the office of Directors, such vacancy shall be filled up as soon as conveniently may be.

- by the remaining Directors, who shall appoint some duly qualified Stockholder to fill such vacancy, until the next election of Directors; but no such vacancy shall affect the validity of the acts of the remaining Directors or of any quorum thereof. 18 V. c. 96, s. 12.
24. At any General Meeting of the Stockholders of any Savings Bank, each Shareholder shall have one vote for every share which he has held during at least three months before such meeting. 18 V. c. 96, s. 13. Votes of Shareholders.
25. Any Shareholder may appear and vote by proxy, such proxy being himself a Shareholder qualified to vote at the meeting; all questions submitted to any such General Meeting shall be decided by the majority of the votes of the Stockholders voting thereat, either in person or by proxy, and the person presiding at any such meeting shall have a casting vote in case of an equal division of the votes, otherwise he shall not vote. 18 V. c. 96, s. 13. May vote by proxy.
26. The President of the Bank, if present, or in his absence, any Director or Stockholder present and chosen by a majority of the Stockholders then present, shall preside at such meeting. 18 V. c. 96, s. 13. The president to preside.
27. The Directors may elect one of their number to be President of the Bank. 18 V. c. 96, s. 15. Election of president.
28. The President shall preside at all meetings of the Directors at which he is present: and in his absence any Director present may be appointed to preside *pro tempore*. 18 V. c. 96, s. 15. The president to preside at all meetings, &c.
29. Questions and matters before the Directors at any meeting shall be decided by the majority of votes of the Directors present thereat. Majority to decide.
30. The President, or person presiding at any meeting of Directors, shall vote as a Director, but shall not have another or casting vote: and if the votes be equally divided, the question shall be held to be decided in the negative. 18 V. c. 96, s. 15. When president entitled to a double vote.
31. Any three Directors shall be a quorum, and any meeting at which a quorum is present, may do any thing which could be done by a meeting at which all the Directors were present, except things required (as they may be) by the laws to be done at a meeting at which a larger number of the Directors, or all of them, must be present. 18 V. c. 96, s. 15. Three Directors to be a quorum.
32. Unless and until it is otherwise provided by the laws of any Savings Bank, the Directors may call General Meetings Directors may call meetings

- of Stockholders. Meetings of the Stockholders thereof for such purposes, in such manner and at such time as they think expedient; and they may also make calls on the Stockholders of the Bank for instalments on the shares held by them respectively, so as no call exceeds ten per cent on the stock so held, or is made payable at a less interval than two months from the time when the last call was payable; but this limitation as to the amount of calls and the interval between them, shall not apply to or impair the effect of any clause in the Instrument of Association by which the parties thereto bind themselves, to pay any amount of their respective shares at any time, but such clause shall have its full effect against such parties and those who lawfully hold their stock as their representatives or assigns, or as the representatives or assigns of their representatives or assigns. 18 V. c. 96, s. 14. 5
- Calls recoverable. **33.** The amount of every call lawfully made, and of any sum so agreed to be paid, may, if not paid when due, be recovered with interest by the Directors, in the name of the Bank, in any Court having jurisdiction to the amount. 18 V. c. 96, s. 14. 10
- Evidence in actions for calls. **34.** In such action it shall be sufficient to allege or prove the agreement in the Instrument of Association, or that the calls were made under this Act, and that the Defendant is the holder of a share or shares in respect of which the amount sued for is due, without alleging or proving any other matter or thing whatever, and the evidence of any one Officer of the Bank, cognizant of any fact required to be proved, shall be sufficient proof thereof. 18 V. c. 96, s. 14. 15
- Calls limited. **35.** No more than one fourth of the Capital Stock of any such Bank shall be called in except only for the purpose of enabling the Bank to meet claims of Depositors which it could not meet without such call, and the fact that the call is necessary for that purpose shall be alleged in the resolution or order of the Directors directing the call to be made, and such allegation shall be evidence of the fact. 18 V. c. 96, s. 14. 20
- Stockholders may make By-laws. **36.** The Stockholders may, at any General Meeting, make By-laws for the government of the Stockholders, Directors, Officers and Servants of the Bank and of the Depositors therein: 18 V. c. 96, s. 16: 25
- Subjects of. With respect—1. to the mode of calling and holding General and Special Meetings of the Stockholders, and the notice to be given of such meetings and of the matters and things to be done or considered thereat; 30
2. The form of proxies and other matters relative to proxies; 35

3. The transfer of shares and the manner in which such transfer may be validly effected, and the manner in which the transmission of shares by bequest or intestacy, marriage, bankruptcy, or any other mode than formal transfers in the manner provided by such By-laws, shall be certified to the Bank before it shall be bound by such transmission ;
4. The person who shall have the right of voting upon any share or shares held by minors, or other persons under legal disability to act for themselves ;
5. The powers and duties to be exercised and performed by the Directors or by the President, or any of them, or by any Officer or Officers of the Bank ;
6. The mode in which deeds and instruments intended to bind the Bank, and under its Corporate Seal, shall be executed on its behalf, and by whom the Corporate Seal shall be affixed thereto, and what instruments or documents shall bind the Bank without being under its Corporate Seal, the form thereof, and by whom they shall be signed or countersigned ;
7. The manner and subject to what conditions moneys deposited in the Bank may be withdrawn by the Depositors, and under what circumstances and in what manner the Bank may require Depositors to withdraw such moneys, on pain of being allowed no interest thereon, after the time at which they have been so required to withdraw the same ; and
8. Generally for all and every purpose for which it may be requisite to make provision for the convenient management and carrying on of the affairs and business of the Bank, and with regard to which no express provision is made by this Act, or by the Instrument of Association of such Bank ; and by any such By-law any power vested in the Bank, except the power of making By-laws, may be deputed to the President, or to any Director or Officer thereof ; and by any such By-law a penalty, not exceeding ~~ten pounds~~, may be imposed for contravention thereof, and such penalty when incurred, may be recovered by the Bank to the use thereof, as a debt due to the Bank. 18 V. c. 96, s. 16.
37. No such By-laws shall be inconsistent with the provisions of this Act, or with the Instrument of Association of the Bank, and so much of any By-law as may be so inconsistent, shall be null and void. 18 V. c. 96, s. 16.
38. The Stockholders may, at any General Meeting, amend, alter or repeal any By-law made at any former meeting, but the enactment, repeal or alteration of any By-law affecting Depositors, shall not apply to any deposit made before the passing thereof, or before it has been published in the manner hereinafter described. 18 V. c. 96, s. 16.

To be consistent with this Act and the Instrument.

By-laws how amendable.

\$40.00.

Printed copy to be posted in office. **39.** A printed copy of By-laws in force for the time being shall be kept constantly posted up in some conspicuous part of the office where deposits are received ; and no such By-law shall as such bind any person other than the Stockholders, Directors, Officers and Servants of the Bank until it has been so posted up during at least one clear day. 18 V. c. 96, s. 16.

How proved. **40.** A copy of any By-law under the Seal of the Bank and the Signature of the President, or of any person authorized to affix the Seal thereto, shall be legal evidence of such By-law and a copy of any By-law proved to have been compared with the copy thereof posted up as aforesaid, shall be *prima facie* evidence of such By-law when produced by any party other than the Bank. 18 V. c. 96, s. 17.

have/

Shares to be personal property. **41.** The shares in the Stock of any Savings Bank shall be personal property, and transferable as such, and shall be transferable in such manner, and subject to such regulations as may have been provided by the Instrument of Association or by the By-laws of the Bank ; and the owner of any share shall have the rights and be subject to the liabilities of the original holder thereof; but no share shall be divided, and if any share be held by several persons jointly, one of such persons shall be appointed by the others to vote thereon, receive dividends, and do all other things that may be required to be done in respect thereof, and his power to that effect shall be lodged with the Bank. 18 V. c. 96 s. 18.

Bank not bound to see to application of money by Trustees. **42.** The Bank shall not be bound to see to the execution of any Trust to which any share may be subject, or to the application of any money received by a Trustee in respect of such share. 18 V. c. 96, s. 18.

Trustees—Owners. **43.** The party holding a share on trust, shall, as regards the Bank, be deemed the owner thereof. 18 V. c. 96, s. 18.

Transfers. **44.** It may be provided either by the Instrument of Association or by the By-laws, that no transfer shall take effect unless and until it be approved by the Directors of the Bank 18 V. c. 96, s. 18.

Liability of person transferring. **45.** Notwithstanding the transfer of any share in the Stock of a Savings Bank, the party transferring the same shall, nevertheless, remain responsible and liable in all respects as regards the liabilities of the Bank incurred before such transfer, to the same extent and in the same manner to and in which he would have been responsible and liable if such transfer had not been made, provided legal proceedings be commenced to enforce such responsibility and liability within eighteen months from the date of such transfer, and saving always the recourse of the party who transferred the share, against the party to whom he transferred it, and the party to whom the transfer has been made,

made, shall, by accepting the same, become in respect thereof subject to all the liabilities of the Shareholder transferring such share. 18 V. c. 96, s. 19.

46. Each Shareholder shall be responsible and liable for the ^{Liabilities of Shareholders.} debts, obligations and liabilities of the Bank to the extent, and not beyond the extent, of the amount of his shares therein, less the amount actually paid in upon such shares. 18 V. c. 96, s. 20.

47. In the event of the failure of a Bank, no more of the ^{If a Bank fails, what Capital Stock to be considered as paid in.} Capital Stock thereof shall be held to have been paid in within the meaning of the last preceding Section, than is then in the hands of the Receiver General, in money or Debentures, or both, reckoning such Debentures at par as aforesaid. 18 V. c. 96, s. 20.

48. There shall be at all times posted up in the office or ^{Lists of Directors and Shareholders to be exhibited in office.} places where deposits in any Savings Bank are received, a correct list of the Directors of and the Shareholders in the Bank, shewing their respective names, residences and additions, and the number and the amount of the shares held by each, and the Directors shall cause such list to be corrected from time to time; and any Depositor may take or have a copy of such list taken at any time during Office hours, and a copy of such list sworn to by any competent witness, shall be presumptive evidence of such list and of the facts therein stated. 18 V. c. 96, s. 21.

49. The books, accounts and papers of any Savings Bank ^{Books to be open to inspection—by whom.} shall always be open to the inspection of the Receiver General, or of any person whom he deputes to examine the same, and shall be kept in regular forms, and according to some tried and approved plan, and the Receiver General may suggest any improvement in the mode of keeping the same, and the Directors of the Bank with respect to which such suggestion is made, shall adopt the same. 18 V. c. 96, s. 22.

50. Every such Bank shall, whenever thereunto required by ^{Receiver General may require statements to be published.} the Receiver General, publish in such manner as he directs, a statement of its affairs, attested by the President or some one of the Directors of the Bank, or by some officer thereof cognizant of the facts, shewing on the one hand the amount due by the Bank to Depositors for principal and the amount due to them for interest, distinguishing the several amounts so due to Depositors having deposited in the Bank respectively, under ~~Fifty pounds, — Fifty pounds or over, but less than One hundred pounds, — Two hundred pounds or over, but less than Three hundred pounds, — Three hundred pounds or over, but less than Four hundred pounds, — and Four hundred pounds or over,~~ and the amount of any other claims on or debts due by the Bank; and shewing on the other hand the amount deposited in the hands of the Receiver General, and the nature of the securities deposited

\$ 200 ✓
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deposited for such part thereof as is not money, the other securities held by the Bank, stating the amount of each kind so held, and reckoning them at par, the amount deposited on call in any chartered Bank, mentioning it,—the amount then accrued for interest on securities held by the Bank, and the amount on hand in money, including Bank notes. 18 V. c. 96, s. 22.

Directors to require securities from other officers—by bond.

51. The Directors shall require from every Officer or Servant of the Bank, ample and good security by Bond, executed by him jointly and severally with two or more sufficient sureties, conditioned that such Officer or Servant will well and truly demean himself in office in all respects, and will faithfully account for and pay over or deliver up to the Directors, when called upon so to do, all moneys and securities of money, books, papers, documents and property of whatever nature or kind, belonging to the Bank, or which come into or are at any time in his hands as such Officer or Servant. 18 V. c. 96, s. 23.

graph

In name of the Bank.

52. Such Bond shall be to the Bank in its corporate name, and in case of any breach of the conditions thereof, may be enforced against the parties thereto by the Directors in the name of the Bank. 18 V. c. 96, s. 23.

All moneys—the property of the Bank.

53. All moneys or securities for money deposited in any Savings Bank shall be held to be the property of the Bank, subject to the right of the depositor to receive back or recover the same or an equal amount in money. 18 V. c. 96, s. 24.

Embezzlements by officers or servants.

54. If any Officer or Servant of any such Bank at any time fraudulently embezzles any chattle, money or valuable security belonging to such Bank (and any unjustifiable refusal or failure to pay over or deliver up any such chattle, money or valuable security, on demand, to the Directors of the Bank, or to any person by them authorized to demand and receive the same, shall be held to be a fraudulent embezzlement thereof) he shall be deemed to have feloniously stolen the same, and may be indicted and proceeded against, and being convicted thereof, shall be punished in the same manner as any servant who, having fraudulently embezzled any chattle, money or valuable security received or taken into his possession by virtue of his employment for or on account of his master, and being in law deemed to have feloniously stolen the same, may be indicted, proceeded against, and punished. 18 V. c. 96, s. 24.

Translator

Remedies not to be affected by prosecution for embezzling.

55. Nothing herein contained, nor the conviction or punishment of the offender shall prevent, lessen, or impair any remedy of the Bank or of any other person or party against such offender or his sureties, or against any other person or party whomsoever, but the conviction of any such offender shall not be

be received in evidence in any action or suit at law or in equity against him or his sureties. 18 V. c. 96, s. 24.

56. Any Savings Bank, may be closed before the time fixed for that purpose by the Instrument of Association, under a By-law to be passed for that purpose, with the concurrence of three-fourths of the whole number of votes of the Stockholders therein, at a General Meeting called expressly and in the manner provided by the By-laws of the Bank, for the purpose of considering the propriety of closing the Bank, and the time at which the Bank shall be finally closed shall be fixed by such By-law, and shall not be less than one year from the passing thereof. 18 V. c. 96, s. 25.

Bank may be closed by By-law—when.

57. If any such By-law be passed, and also if no such By-law be passed, but the period for which such Bank is to continue according to the Instrument of Association be within one year of expiring, then in either case the Bank shall receive no further deposits, and the Directors shall give notice that the Bank will finally close on the day appointed for that purpose, and that no further deposits will be received, and shall by such notice require all depositors to withdraw their deposits on or before the commencement of the six months next before the day appointed for the final closing of the Bank, and all interest shall cease on any deposits which are not withdrawn pursuant to such notice. *Ib.*

Deposits not to be received where closing is contemplated.

58. The Directors shall proceed to convert all the securities held by the Bank into money, and to discharge all liabilities of the Bank, and finally close all the business thereof, dividing the money which remains after discharging all its liabilities, among the Stockholders, in proportion to their respective shares in the Stock of the Bank. *Ib.*

Duty of Directors in closing.

59. Notwithstanding the arrival of the time appointed for the final closing of the Bank, the Directors in office at the time shall remain in office as Trustees, to complete and close the business of the Bank, and they or the survivors or survivor shall, as such Trustees have, for that purpose only, all the powers hereby vested in the Directors, and such powers may be exercised by any majority of them or of the survivors of them. *Ib.*

To continue as Trustees for that purpose.

60. The Receiver General, on being satisfied that all the liabilities of the Bank have been discharged, or that such as are undischarged amount only to a certain sum, may deliver up to the Directors or Trustees, the money or debentures in his hands belonging to the Bank, or such amount thereof as will leave in his hands no more than the amount of such undischarged debts. 18 V. c. 96, s. 25.

When Receiver General may deliver to the Trustees the assets in his hands belonging to the Bank.

When failure to pay—equivalent to a By-law to close.

61. Any failure on the part of a Savings Bank to meet its engagements to or with regard to any depositor, shall have, to all intents and purposes, the same effect as regards the closing of the Bank and the other proceedings to be had under the two last preceding sections, and the powers and duties of the Directors, as if a By-law had been passed in the manner required by the said sections, providing for the closing of the Bank at the end of one year from the day on which such failure takes place, and the Directors shall act accordingly. 18 V. c. 96, s. 26.

How assets in hands of Receiver General to be then applied.

62. In such case the Receiver General shall cause the moneys or securities in his hands belonging to the Bank, and the interest thereon, to be applied solely to the payment of the sums due to depositors in the Bank in equal proportions, and for this purpose he may sell, dispose of, and convert into money any of the said securities, and if he sees fit may deliver any of such moneys or securities to the Directors of the Bank for the purpose of being applied as aforesaid. *Ibid.*

If delivered to the Directors —bonds to be taken for the due application thereof.

63. If delivered to the Directors as aforesaid the Receiver General shall cause good and sufficient security to be given by Bond to Her Majesty, that such moneys or securities will be faithfully so applied, and upon any breach of the condition of the said Bond, the same shall be enforced on behalf of the Crown, and the sum recovered shall be applied first in aid of the funds of the Bank to pay the claims of depositors therein, and the remainder to the public uses of the Province. 18 V. c. 96, s. 26.

Consequences of Directors infringing this Act or neglecting duty.

64. If the Directors of any savings Bank wilfully or knowingly commit, or cause or allow to be committed, any contravention of this Act, or are guilty of any neglect of the duties hereby imposed on them, the Directors then in office shall (in addition to any other penalty or liability they may thereby incur) be jointly and severally responsible and liable for any loss or damage which any depositor or other person may sustain, by reason of such contravention or neglect of duty, always the recourse of any of the said Directors who did not participate in such contravention or neglect of duty, against those who did so participate, and every of them. 18 V. c. 96, s. 27.

Officers and servants to be competent witnesses.

65. Every officer and servant of any Savings Bank, and every Stockholder thereof, shall be a competent witness in any suit, action or proceeding by or against such Bank or under this Act, provided he be not otherwise incompetent. 18 V. c. 96, s. 28.

Service of process, &c.

66. Service of process or of any notice or other document on any Savings Bank, may be validly made by leaving a duly certified copy thereof, with any Director or Officer of the Bank or

or any grown person in the employ of the Bank, at the place at which its business is carried on, except only in cases where from the nature of the process, notice or document, service thereof ought to be made on some particular Member or Officer of the Corporation in person; but any process, notice, or document which, in the case of a private party, might be validly transmitted to such party by mail, may with the like effect, be transmitted by mail to such Bank by its corporate name, addressed to its place of business as aforesaid- 18 V. c. 96, s. 29.

67. The validity of any thing done by the Directors of any Savings Bank established under this Act or any of them, shall not be affected by any irregularity or invalidity in the election or appointment of the Directors or any of them, provided such thing be done before such irregularity or invalidity has been declared by some competent tribunal, and the office of such Director or Directors declared vacant. 18 V. c. 96, s. 30. Informal elections not to invalidate proceedings.

68. Nothing in this Act shall be construed to give any Savings Bank the right of issuing Bank Notes, or of carrying on the business of Banking, or of any kind of business whatever; except such as is expressly authorized by this Act or be-
such Bank shall be bound to receive or to retain any money offered in deposit, or deposited by any person, if the Directors think proper to refuse to receive or to retain the same. 18 V. c. 96, s. 31. Banks not to issue notes, &c.

69. No Savings Bank established under the provisions of the Act passed in the Session of the Parliament of this Province, held in the fourth and fifth years of Her Majesty's Reign, in-
titled, *An Act to encourage the establishment of and regulate Savings Banks in this Province*, in operation, on the thirtieth day of May, one thousand eight hundred and fifty-five, shall be bound by the provisions of this Act. 18 V. c. 96, s. 32. Certain Banks exempted from this Act. 4, 5 V. c. 32.

70. The Act in the last preceding Section mentioned, shall continue in force for seven years from the thirtieth day of May, one thousand eight hundred and fifty-five, as regards every such Bank which did not within six months from that date, avail itself of the provisions in the Act passed in the eighteenth year of Her Majesty's Reign, Chapter ninety-six to regulate Savings Banks, &c. 18 V. c. 96, s. 32. Act of 30th May, 1855, continued for 7 years.

71. The Governor may appoint an Inspector or Inspectors of Savings Banks, who shall have all the powers of Commissioners for inquiring into matters connected with the public business, and may examine any party under oath to be administered by a Commissioner. 18 V. c. 96, s. 33. Governor may appoint Inspectors of Savings Banks.

Duties of Inspectors.

72. Each Inspector shall visit each Savings Bank in the portion of the Province assigned to him, at least twice in each year and examine thoroughly the state of its affairs, for which purpose those in charge of the books and papers of the Bank shall allow him free access thereto, and all information which he may require. 18 V. c. 96, s. 33.

To report to the Governor in Council.

73. If any Inspector finds that the provisions of this Act (or of the Acts above cited) have been contravened by or in respect of any Bank, or if the state of its affairs are such as in the opinion of the Inspector to endanger the safety of the Depositors, or if any necessary information be refused him, he shall report the facts to the Governor, who shall by order in Council forbid the receiving of any further deposits by such Bank after the publication of such order in the *Canada Gazette*. 18 V. c. 96, s. 33.

Powers of Governor in Council thereupon.

74. The Governor by Order in Council, may either remove the prohibition to receive deposits, or confirm the same and order the affairs of the Bank to be wound up, in which latter case the Bank shall receive no more deposits, and shall be closed and otherwise dealt with in the manner provided in this Act, for winding up the affairs of any Bank established under this Act. 18 V. c. 96, s. 33.

When Directors personally liable.

75. If any deposit be received after the publication of such Order in Council forbidding the receiving of deposits, every Director and Trustee of the Bank shall be personally liable to the Depositors of the principal and interest of such deposit, unless he protested against the receiving of deposits and published such protest in some newspaper published in or near the Bank's place of business, within forty-eight hours after the date of the publishing of the Order in Council not to receive deposits. 18 V. c. 96, s. 33.

This Act may be amended, &c.

76. The Parliament of this Province may amend this Act in any way, or make any further provision for enforcing its enactments without its being deemed an infringement of the rights of any Savings Bank established under it or of the Stockholders therein 18 V. c. 96, s. 34.

Montreal Provident and Savings Bank excepted.

77. Nothing in this Act shall apply to the Montreal Provident and Savings Bank, and the Act mentioned in the sixth-ninth section of this Act, shall remain in force as regards the said Bank, except in so far as it may have been altered or affected by other Acts specially relating to the said Bank. 18 V. c. 96, s. 35.

C A P. L V I I.

An Act respecting Promissory Notes and Bills of Exchange.

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

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1. In Upper Canada, the sum to be allowed to a Notary, for noting and protesting for non-payment any Bill, Draft, or Order, drawn by any person in Upper Canada, on any person in this Province, or any Promissory Note made or negotiated in Upper Canada, shall be ~~two shillings and six pence~~, and the further sum of ~~one shilling and three pence~~, and no more, for each notice, in addition to postages actually paid. 13, 14 V. c. 23, s. 1.

Notarial fees on protest, &c, in Upper Canada.

\$ 0.50.
.25

~~50~~

2. In Lower Canada, the sum to be allowed to any Notary for noting and protesting any Bill of Exchange, Draft, Order or Promissory Note, shall be ~~five shillings~~, and the further sum of ~~two shillings and six pence~~, and no more, for each notice, in addition to postages actually paid. 13, 14 V. c. 23, s. 2.

In Lower Canada.

\$ 1.00
0.50

3. No Clerk, Teller or Agent of any Bank, shall act as a Notary in the protesting of any Bill or Promissory Note, payable at the Bank, or at any of the Agencies of the Bank in which he is employed. 13, 14 V. c. 23, s. 3.

Officers of Banks not to be Notaries.

4. In Lower Canada, the words "only, and not otherwise or elsewhere," or words of like import, need not be inserted in the body of a Bill or Note, or in any acceptance of a Bill, to prevent the same from being payable generally, or the acceptance from being general; but if in any Bill or Note, or in the acceptance of any Bill, the same be made payable at any stated place, it shall be payable at such place only, and not otherwise or elsewhere, and the promise or acceptance shall be qualified accordingly. 13, 14 V. c. 23, s. 4.

Effect of words "only and not elsewhere," in Lower Canada.

5. Whenever the day which would otherwise be the last day of grace for the payment of any Bill of Exchange or Promissory Note, is a Sunday or legal Holiday, at the place where the same is payable in Upper or Lower Canada respectively, such Bill or Note shall be payable and the days of grace shall expire, on the day next thereafter not being a Sunday or Holiday as above mentioned, and not before. 18 V. c. 10, 13, 14 V. c. 23, s. 5.

Last days of grace.

6. All Protests of Bills of Exchange and Promissory Notes shall be received in all Courts as *prima facie* evidence of the allegations *prima facie* evidence.

allegations and facts therein contained. 14, 15 V. c. 94, s. 2,--*U. C. only.* 13, 14 V. c. 23, s. 6.

Certificate of Notaries to be presumptive evidence in U. C.

7. Any note, memorandum, or certificate at any time made by one or more Notaries Public either in Upper or in Lower Canada, in his own hand writing, or signed by him at the foot of or embodied in any protest, or in a regular Register of official Acts kept by him, shall be presumptive evidence in Upper Canada of the fact of any notice of non acceptance or non-payment of any Promissory Note or Bill of Exchange having been sent or delivered, at the time and in the manner stated in such Note, certificate or memorandum. 7 V. c. 4, s. 2.

Production of protest to be presumptive evidence that protest was made.

8. The production of any Protest on any Promissory Note or Bill of Exchange, under the hand and seal of any one or more Notaries Public, either in Upper or in Lower Canada, in any Court in Upper Canada shall be presumptive evidence of the making of such Protest. 7 V. c. 4, s. 3.



An Act respecting Interest.

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

1. No contract made in this Province between the twenty-fourth day of March, one thousand eight hundred and fifty-three, and the sixteenth day of August, one thousand eight hundred and fifty-eight, for the loan or forbearance of money or money's worth, at any rate of interest, and no payment made in pursuance of such contract, shall render any party to such contract or payment liable to any loss, forfeiture, penalty or proceeding, civil or criminal, for usury, and no such contract or any security for the same shall be void in the whole, but only so far as it relates to any excess of interest thereby made payable above the rate of Six ~~Pounds~~ for the forbearance of One Hundred Pounds for a year; But in all such cases the rate of six per cent interest, or such lower rate as agreed upon, shall be allowed where it was the agreement of the parties that interest should be paid. 16 V. c. 80, ss. 2, 3,--- 22 V. c. 85 s. 1.

Certain contracts not to be invalidated except for excess in the amount of interest.

dollars

2. The last section shall not apply to any Bank or Banking Institution or to any Insurance Company, or to any Corporation or Association of persons authorized by law to lend or borrow money at a higher rate of interest than six per centum per annum. 16 V. c. 80, s. 4.

Certain Institutions excepted.

3. Except as hereinafter provided any person or persons, may stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount which may be agreed upon. 22 V. c. 85, s. 2.

Any person not excepted may agree for and recover any rate of interest.

4. No Bank incorporated by any Act of the Legislature of this Province, or of the late Provinces of Upper or Lower Canada respectively, or by Royal Charter, and no Bank established under the provisions of the Act of the Legislature of this Province, passed in the Session thereof, held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to establish freedom of Banking in this Province, and for other purposes relative to Banks and Banking*, or established after this Act takes effect under the Act respecting Banks and freedom of Banking, may stipulate for, take, reserve or exact a higher rate of discount or interest than seven per centum per annum; and any rate of interest not exceeding seven per centum per annum may be received and taken in advance by any such Bank; and any such Bank may allow and pay any rate of interest whatsoever upon moneys deposited in such Bank. 22 V. c. 85, s. 3.

Banks not to take more than 7 per cent. per annum. 13, 14 V. c. 21.

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Banks not to take more than certain rates of premium on paper discounted elsewhere than where it is payable.

5. Any Bank or Banking Institution, carrying on business as such in this Province, may in discounting at any of its places or seats of business, branches, agencies or offices of discount and deposit any note, bill or other negotiable security or paper payable at any other of its own places or seats of business, branches, agencies or offices of discount and deposit within this Province, receive or retain in addition to the discount any amount not exceeding the following rates per centum according to the time it has to run, on the amount of such note, bill or other negotiable security or paper, to defray the expenses attending the collection of such bill, note or other negotiable security or paper, that is to say, under thirty days, one-eighth of one per cent., thirty days and over, but under sixty days, one-fourth of one per cent., sixty days and over, but under ninety days, three-eighths of one per cent., ninety days and over, one-half of one per cent. 22 V. c. 85, s. 4.

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Three last sections of this Act not to apply to Corporations.

6. Nothing in the three last preceding sections of this Act shall be construed to apply to any Corporation, or Company, or Association of persons, not being a Bank, authorized by law before the sixteenth of August, one thousand eight hundred and fifty-eight, to lend or borrow money. 22 V. c. 85, s. 6.

What sum may be retained in discounting notes.

7. Any Bank or Banking Institution carrying on business as such in this Province, either under a Royal Charter, or by Act of Incorporation passed by the Legislature of this Province, or of either of the late Provinces of Lower or Upper Canada, may in discounting any note, bill, or other negotiable security or paper, *bona fide* payable at a place within this Province, different from that at which it is discounted and other than its own places or seats of business, branches, agencies or offices of discount and deposit within this Province, may charge in addition to the discount thereon, a sum not exceeding one half per centum on the amount thereof, to defray the expenses of agency and exchange in collecting the same. 19 V. c. 48, s. 1. *22 V. c. 85 s. 4*

6 per. cent. to be the rate where no other is agreed upon.

8. Six per cent. per annum shall continue to be the rate of interest in all cases where, by the agreement of the parties or by law, interest is payable, and no rate has been fixed by the parties or by the law. 22 V. c. 85, s. 5.

The law of Usury as to Banks and certain other Corporations and Associations.

9. Except as otherwise authorised and provided by this Act or by some other Act or law, no Corporation or Company or Association of persons not being a Bank authorised by law before the sixteenth of August, 1858, to lend or borrow money, shall upon any contract take directly or indirectly for loan of any moneys, wares, merchandize, or other commodities whatsoever, above the value of six pounds for the advance or forbearance of one hundred pounds for a year, and so after that rate for a greater

dollars
dollars |

* Qc:—Omit the words "before the sixteenth of August, 1858"

greater or less sum or value, or for a longer or shorter time ;
 and except as aforesaid, all bonds, bills, promissory notes,
 contracts and assurances whatsoever made or executed in contra-
 vention of this Act whereupon or whereby a greater interest
 5 is reserved and taken than authorised by this Act or by some
 other Act or law, shall be utterly void, and every Bank or Bank-
 ing Institution, and every Corporation, and Company, and As-
 sociation of persons not being a Bank, authorized to lend or
 borrow money as aforesaid, which directly or indirectly takes,
 10 accepts and receives a higher rate of interest, shall forfeit and
 lose for every such offence treble the value of the moneys,
 wares, merchandize, or other commodities lent or bargained for,
 to be recovered by action of debt in any Court of competent ju-
 15 risdiction in this Province. One moiety of which penalty shall
 be paid to the Receiver General for the uses of Her Majesty
 and the other moiety to the person who sues for the same. 51
 G. 3, c. 9, s. 6, U. C.,—17 G. 3, c. 15, L. C.

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CAP. LIX.

An Act respecting the protection of Persons who receive Assignments and enter into Contracts in relation to Goods entrusted to Agents.

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

What contracts with agents to be valid.

1. Any person may contract for the purchase of goods with any agent entrusted with the possession thereof, or to whom the same may be consigned, and may receive and pay for the same to such agent, and such contract and payment shall be binding upon the owner of the goods notwithstanding the purchaser has notice that he is contracting only with an agent. 10, 11 V. c. 10, s. 1. 5 10

When agents to be deemed owners.

2. Any agent entrusted with the possession of goods or of the documents of title thereto shall be deemed the owner thereof for the following purposes, that is to say :

And for what purposes.

1. To make a sale or contract, as in the first clause mentioned ;

2. To entitle the consignee of goods consigned by such agent to a lien thereon for any money or negotiable security advanced or given by him to or for the use of such agent, or received by the agent for the use of the consignee, in like manner as if such agent was the true owner of the goods ; 15

3. To give validity to any contract or agreement by way of pledge (*gage*) lien or security *bond fide* made with such agent, as well for an original loan, advance or payment made upon the security of the goods or documents, as for any further or continuing advance in respect thereof ; and 20

4. To make such contract binding upon the owner of the goods and on all other persons interested therein, notwithstanding the person claiming such pledge or lien had notice that he was contracting only with an agent. 10, 11 V. c. 10, s. 2. 25

What contracts for lien valid.

3. In case any person has a valid lien and security on any goods or document of title or negotiable security in respect of a previous advance upon a contract with an agent,—and in case he delivers up the same to such agent upon a contract for the pledge (*gage*), lien or security of other goods or of another document or security by such agent delivered to him in exchange, to be held upon the same lien as the goods, document or security so delivered up,—then such new contract, if *bond fide*, shall be deemed a valid contract made in consideration of a present advance of money within this Act, but the lien acquired under 30 35

under such new contract on the goods, document or security deposited in exchange, shall not exceed the value of the goods, document or security so delivered up and exchanged. 10, 11 V. c. 10, s. 3.

5 4. Such contracts only shall be valid as are herein mentioned, and such loans, advances and exchanges only shall be valid as are made *bonâ fide* and without notice that the agent making the same has no authority so to do, or that he is acting *malâ fide* against the owner of the goods. 10, 11 V. c. 10, s. 4. Must be *bonâ fide*.

10 5. No antecedent debt owing from any agent entrusted as aforesaid, shall authorize any lien (*gage*) or pledge in respect of such debt, nor shall it authorize such agent to deviate from any express orders or authority received from his principal. *Id.* Antecedent debt not to authorize lien.

15 6. All *bonâ fide* loans, advances and exchanges as aforesaid (though made with notice of the agent's not being the owner, but without notice of his acting without authority), shall bind the owner and all other persons interested in the goods, document or security, as the case may be. 10, 11 V. c. 10, s. 4. *Bonâ fide* transactions with agents to bind owners.

20 7. Every bill of lading, warehouse keeper's or wharfinger's receipt or order for delivery of goods, every bill of inspection of pot or pearl ashes, and every other document used in the ordinary course of business, as proof of the possession or control of goods, or authorizing or purporting to authorize either by endorsement or by delivery the possessor of such document to transfer or receive goods thereby represented, shall be deemed a document of title within this Act. 10, 11 V. c. 10, s. 5. Documents of title defined.

25 8. Any agent entrusted as aforesaid and possessed of any such document of title, whether derived immediately from the owner of the goods or obtained by reason of the agent's having been entrusted with the possession of the goods or of any document of title thereto, shall be deemed to be entrusted with the possession of the goods represented by such document of title. 10, 11 V. c. 10, s. 5. Agents possessed of to be deemed entrusted, &c.

30 9. All contracts pledging or giving a lien upon any such document of title shall be deemed a pledge (*gage*) of and lien upon the goods to which it relates, and the agent shall be deemed the possessor of the goods or documents of title whether the same be in his actual custody or be held by any other person for him or subject to his control. *Id.* Contracts for a lien founded thereon valid.

35 40 10. When any loan or advance is *bonâ fide* made to any agent entrusted with and in possession of goods or documents of title as aforesaid on the faith of any contract in writing to consign, deposit, transfer or deliver such goods or documents of title, and the same are actually received by the person making the loan or advance, either at the time of the contract or at a time subsequent *Bonâ fide* loans or advances when deemed authorized.

subsequent thereto, without notice that the agent is not authorized to make the pledge or security, such loan or advance shall be deemed a loan or advance upon the security of the goods or documents of title within this Act. *Ib.*

What contracts to be considered.

11. Every contract, whether made direct with the agent as aforesaid or with any clerk or other person on his behalf, shall be deemed a contract with such agent. *Ib.* 5

Payments when deemed advances.

12. Every payment, whether made by money, bills of exchange or other negotiable security, shall be deemed an advance within this Act. *Ib.* 10

Possession *primâ facie* evidence of ownership.

13. Every agent in possession of goods or documents as aforesaid shall, for the purposes of this Act, be taken to be entrusted therewith by the owner, unless the contrary be shewn in evidence. 10, 11 V. c. 10, s. 5.

Liability of agents not to be affected.

14. Nothing herein contained shall lessen, alter or affect the civil responsibility of any agent for the breach of any duty or contract or the non-fulfilment of his orders or authority, in respect of any such contract, agreement, lien or pledge (*gage*) as aforesaid. 10, 11 V. c. 10, s. 6.

Consequences of dereliction.

15. In case any agent entrusted as aforesaid, contrary to or without the authority of his principal, for his own benefit and in violation of good faith, makes, by way of pledge (*gage*) lien and security, any consignment, deposit, transfer or delivery of any goods or documents of title so entrusted to him, or contrary to or without such authority, for his own benefit and in violation of good faith, accepts any advance on the faith of any contract to consign, deposit, transfer or deliver such goods or documents of title, such agent shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be sentenced to suffer such punishment by fine or imprisonment in the Common Gaol for 30 any term not exceeding two years, or by both, as the Court awards. 10, 11 V. c. 10, s. 7.

Misdemeanor.

Aiders, &c.

16. Every clerk or other person who knowingly and willfully acts and assists in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, shall be guilty of a misdemeanor, and shall be liable, at the discretion of the Court, to any of the punishments which the Court may award as herein last mentioned. *Ib.* 35

When agent not liable criminally.

17. No such agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, in case the same are not made a security for or subject to the payment of any greater sum of money than at the time was justly due and owing to the agent from his principal, together with the amount of any bills of exchange drawn by or on account of his principal, and accepted by such agent. *Ib.* 45

18.

18. The conviction of any agent as aforesaid, shall not be received in evidence in any action at law or suit in equity against him. *Ib.* Conviction not admissible in evidence.
19. No oath or admission under oath by an agent entrusted as aforesaid, made previously to his being indicted for the offence, in consequence of the compulsory process of a Court of Law, Equity or Admiralty in an action, suit or proceeding *bonâ fide* instituted by a party aggrieved, nor any disclosure made by him in an examination or in a deposition before any Commissioner of Bankrupts, shall be used in evidence in any prosecution against the agent in respect of any act done by him as aforesaid. 10, 11 V. c. 10, s. 7. Admissions under oath not admissible in evidence against the party.
20. Nothing herein contained shall prevent the owner from redeeming any goods or documents of title pledged as aforesaid, at any time before the same have been sold, upon repayment of the amount of the lien thereon or restoration of the securities in respect of which the lien exists, and upon payment or satisfaction to the agent of any sum of money for or in respect of which such agent is entitled to retain the goods or documents, by way of lien against such owner; or shall prevent the owner from recovering from the person with whom any goods or documents have been pledged, or who has any lien thereon, any balance or sum of money remaining in his hands as the produce of the sale of the goods, after deducting the amount of the lien under the contract. 10, 11 V. c. 10, s. 8. Owners may redeem goods pledged.
21. In case of the bankruptcy of any such agent, and in case the owner of the goods redeems the same, he shall, in respect of the sum paid by him on account of the agent for such redemption, be held to have paid the same for the use of such agent before his bankruptcy, or in case the goods have not been so redeemed, the owner shall be deemed a creditor of the agent for the value of the goods so pledged at the time of the pledge, and may in either case prove for or set-off the sum so paid, or the value of such goods, as the case may be. 10, 11 V. c. 10, s. 8. Remedy of owner against the estate of an agent bankrupt.
22. In construing this Act, the word "person" shall be taken to designate a body corporate or company as well as an individual; and the word "goods" shall be taken to include all personal property of whatever nature or kind soever, and the word "shipped" shall be taken to mean the carriage of goods, whether by land or by water. 10, 11 V. c. 10, s. 9. Interpretation clause.
23. Nothing herein contained shall give validity to, or in any wise affect any contract, agreement, lien, pledge, (*gage*) or other act, matter or thing made or done before the twenty-eighth of July, 1847, or destroy or diminish any other right recourse or remedy not contrary or repugnant to this Act which might This Act not to affect transactions prior to 28th July, 1847.

might be enforced according to the Laws of Upper or Lower Canada. 10, 11 V. c. 10, s. 10.

Act to relate
to 28th July,
1847.

24. This Act shall relate to and from the twenty-eighth July, one thousand eight hundred and forty-seven, and as respects all transactions and things since that day within the scope and ⁵ meaning hereof, shall be construed and applied as if it had been passed on that day.

C A P . L X .

An Act respecting Limited Partnerships.

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

1. Limited partnerships for the transaction of any mercantile, mechanical or manufacturing business within the Province of Canada, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned ; but the provisions of this Act shall not be construed to authorize any such Partnership for the purpose of Banking or making Insurance. 12 V. c. 75. s. 1,—18 V. c. 14, s. 1. Limited partnerships may be formed.
2. Such Partnerships may consist of one or more persons, who shall be called General Partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called Special Partners. Of whom to consist.
3. General partners shall be jointly and severally responsible as general partners are by law, but Special Partners shall not be liable for the debts of the partnership beyond the amounts by them contributed to the capital. 12 V. c. 75, s. 2. General and special partners.
Duty of—
4. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same. 12 V. c. 75, s. 3. General partners only to transact business, &c.
5. The persons desirous of forming such partnership shall make and severally sign a certificate which shall contain—
V. c. 75, s. 4. Certificate to be signed.
- First.* The name or firm under which the partnership is to be conducted ; Contents of.
- Secondly.* The general nature of the business intended to be transacted ;
- Thirdly.* The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual places of residence ;
- Fourthly.* The amount of capital stock which each special partner has contributed ;
- Fifthly.* The period at which the partnership is to commence, and the period at which it will terminate.

Form of.

6. The certificate shall be in the following form, and be signed by the several persons forming such partnership, before a Notary Public, who shall duly certify the same, namely: 12 V. c. 75, ss. 4, 5.

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (B. D. & Co.), as (Grocers and Commission Merchants), which firm consist of (A. B.) residing usually at _____, and (C. D.) residing usually at _____, as general partners: and (E. F.) at _____, as special partners. The said (E. F.) having contributed (\$1,000) and the said (G. H.) (\$2,000,) to the Capital Stock of the said partnership. Which said co-partnership commences on the _____ day of _____ (Anno Domini one thousand eight hundred and fifty-_____) and terminates on the _____ day of _____ (Anno Domini one thousand eight hundred and sixty-_____) .

\$ 4.08. 1/2

Dated this _____ day of _____ (Anno Domini one thousand eight hundred and fifty-_____) .

(Signed,)

A. B.
C. D.
E. F.
G. H.

Signed in the presence of me, }
L. M. }
Notary Public. }

Where to be filed.

7. The certificate so signed and certified, shall in Upper Canada be filed in the Office of the Clerk of the County Court of the County, and in Lower Canada shall be filed in the Office of the Prothonotary of the District and of the Registrar of the County in which the principal place of business of the partnership is situate, and shall be recorded by him at large in a book to be for that purpose kept and open to public inspection. 12 V. c. 75, s. 6,—18 V. c. 14, s. 2.

Partnership not formed until filed.

8. No such partnership shall be deemed to have been formed until a certificate has been made, certified, filed and recorded as above directed; and if any false statement be made in such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof, as general partners. 12 V. c. 75, s. 7.

Certificates of continuance.

9. Every renewal or continuance of a partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation; and every partnership otherwise renewed or continued, shall be deemed a general partnership. 12 V. c. 75, s. 8.

10. Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section. 12 V. c. 75, s. 9. What alterations to be deemed a dissolution.
11. The business of the partnership shall be conducted under a name or firm in which the names of the general partners, or some or one of them, only shall be used: and if the name of any special partner is used in such firm with his privilege, he shall be deemed a general partner. 12 V. c. 75, s. 10. Partnership—name.
12. Suits in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner. 12 V. c. 75, s. 11. Liability of general partners to suits.
13. No part of the sum which any special partner has contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest, any profits remain to be divided, he may also receive his portion of such profits. 12 V. c. 75, s. 12. Restrictions upon stock of special partners.
14. If it appears that by the payment of interest or profits to any special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of the deficient capital, with interest. 12 V. c. 75, s. 13. When liable to refund.
15. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as Agent, Attorney or otherwise; and if he interposes contrary to these provisions, he shall be deemed a general partner. 12 V. c. 75, s. 14. Privileges of special partners.
16. The general partners shall be liable to account both in law and equity to each other and to the special partners for their management of the concern in like manner as other partners. 12 V. c. 75, s. 15. General partners liable to account.

Other credit-
ors preferred
to special
partners.

17. In case of the insolvency or bankruptcy of the partner-
ship, no special partner shall under any circumstances be
allowed to claim as a creditor until the claims of all the
other creditors of the partnership have been satisfied. 12 V. c.
75, s. 16.

No premature
dissolution
without no-
tice, &c.

18. No dissolution of such partnership by the acts of the
parties shall take place previous to the time specified in the
Certificate of its formation or in the Certificate of its renewal,
until a notice of such dissolution has been filed in the office in
which the original Certificate was recorded, and has been pu-
blished once in each week for three weeks, in a newspaper
published in the County or district where the partnership has
its principal place of business, and for the same time in the
Canada Gazette. 12 V. c. 75, s. 17.

Partnerships
before 5th
December,
1854 empow-
ered to carry
on business in
both L. C. and
U. C.

19. Any Partnership Firm formed in Upper Canada under 15
the limited Partnership Act, before the fifth day of September,
one thousand eight hundred and fifty-four, may carry on busi-
ness in Lower Canada, as well as in Upper Canada, provided
a certificate of the formation of such Partnership and of the
extension thereof to Lower Canada, in the Form following be
first filed in the Prothonotary's Office of the District, and in
the Registry Office of the County in Lower Canada, in which
the place of business of such Partnership in Lower Canada is
situate, namely : 18 V. c. 14, s. 2,—12 V. c. 10, s. 5, No. 10.

We, the undersigned, do hereby certify that we have entered
into Copartnership under the style or firm of (&c.,)
as (Grocers and Commission Merchants,) which firm consists
of (A. B.) residing usually at , and (C. D.) residing
usually at , as general Partners, and (E. F.)
residing usually at , and (G. K.) residing usually at
as special Partners ; the said (E. F.) having contributed
(\$1,000) and the said (G. K.) (\$2,000) to the Capital Stock of
the said Partnership, which said Partnership commenced on
the day of (Anno Domini, one thousand
eight hundred and), and terminates on the
day of (Anno Domini, one thousand eight hundred
and), and whereof a certificate was duly recorded in
the Office of the (Clerk of the County Court of the County of
) on the day of
Anno Domini, one thousand eight hundred and , and 40
which Partnership is this day extended to Lower Canada.

Dated this day of , Anno Domini,
one thousand eight hundred and .

(Signed,)

Signed in the presence of }
L. M. }
Notary Public. }

A. B.
C. D.
E. F.
G. K.
18 V. c. 14, s. 2, and Schedule.
90.

34
\$8

20. Any Limited Partnership legally formed between the fifth day of September, one thousand eight hundred and fifty-four, and the day on which this Act takes effect, may transact business in either Upper Canada or in Lower Canada, or both, upon compliance with the formalities by this Act required, and on filing a certificate of the formation of the Partnership in the first form in this Act contained, in the Office of the Clerk of the County Court of the County in Upper Canada, and in Lower Canada in the Offices of the Prothonotary of the District and of the Registrar of the County, in which the principal place of business of the said Partnership is situate. 18 V. c. 14, s. 2.

Partnerships now formed in U. C. may carry on business in L. C., &c.

21. The mere extension to Lower Canada, of any existing Limited Partnership formed, before the eighteenth day of December, one thousand eight hundred and fifty-four, shall not be deemed a dissolution of such Partnership. 18 V. c. 14, s. 3.

Such extension to L. C. not to be deemed a dissolution.

22. The Clerk of the County Court in Upper Canada and the Prothonotary and Registrar in Lower Canada, shall each receive for filing every such Certificate, or certificate of extension, or of any renewal, and for recording the same, the sum of two shillings and six pence. 12 V. c. 75, s. 18,—and 18 V. c. 14, s. 4.

Fees.

C A P. L X I.

An Act respecting Pawnbrokers and Pawnbroking.

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

- Pawnbrokers to be licensed.** 1. Every person exercising the trade of a Pawnbroker in this Province, shall take out a license, under the hand of the Governor, to be issued by the Revenue Inspectors, and shall renew the same annually. 14, 15 V. c. 82, s. 1.
- Penalty for neglect.** 2. In case any Pawnbroker neglects to take out or renew such license, he shall forfeit ~~Five Pounds~~ for every pledge he takes without such license, to be recovered in any of Her Majesty's Courts. 14, 15 V. c. 82, s. 1.
- Fee for license.** 3. The sum of ~~Fifteen Pounds~~ currency for every such license shall be paid into the hands of the Collector of Customs, nearest the residence of the Pawnbroker, and the same shall be accounted for to the Receiver General. 14, 15 V. c. 15 82, s. 2.
- A single license.** 4. No person shall, by virtue of one license, keep more than one house or shop, or place for taking in goods to pawn. 14, 15 V. c. 82, s. 3.
- Partners.** 5. Any number of persons carrying on trade as Pawnbrokers in partnership in the same house, shop or place, need only take out a license for one house. *Ibid.*
- Pawnbroker, defined.** 6. Every person who receives or takes, by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon, shall be deemed a Pawnbroker within the meaning of this Act. 14, 15 V. c. 82, s. 4.
- To exhibit a sign.** 7. Every Pawnbroker shall have a sign, with his name and the word "Pawnbroker" in large legible characters thereon placed over the door outside of the shop, or other place used by him for carrying on such business. 14, 15 V. c. 82, s. 5.
- Penalty for neglect.** 8. In case any Pawnbroker neglects to have such sign so placed, he shall forfeit ~~Ten Pounds~~ for every shop or place made use of for one week without having the same so put up, to be recovered, with costs, on the oath of one witness, before any two Justices of the Peace, and if not forthwith paid, upon conviction, the same may, by Warrant under the hands and seals of two Justices of the Peace, be levied by distress and sale, of the offender's goods, and one half of the penalty shall be paid to the informer, and the other half to the Queen. 14, 15 V. c. 82, s. 5.
- 9.

\$ 200

\$ 60

14. 15-

9. If there be not a sufficient distress, or payment be not forthwith made, the offender shall be committed to the County or District Gaol, for a term not exceeding three months nor less than fourteen days, unless the penalty and reasonable charges be sooner paid. *Ibid.*

If no distress may be committed.

14. 15 V. 982 85.

10. Every Pawnbroker may take the following rates above the principal sum advanced, before he is obliged to redeliver the goods pawned, that is to say, for every pledge upon which there has been lent not exceeding ~~Two Shillings and Six Pence~~, the sum of one Half-penny for any time not exceeding one month, and the same for every month afterwards, including the current month in which the pledge is redeemed, although such month has not expired; and so on progressively and in the same proportion for every sum of ~~Two Shillings and Six Pence~~ up to ~~Five Pounds~~. 14, 15 V. c. 82, ss. 6, 7.

Pawnbroker's rates.

\$ 0.50.

\$ 0.50. (or 5/6 of a cent)

11. When the sum lent exceeds ~~Five Pounds~~, the Pawnbroker may take upon all beyond that amount after the rate of ~~Three Pence~~ for every ~~Twenty Shillings~~ by the month, and so on in proportion for any fractional sum. 14, 15 V. c. 82, s. 6.

When the sum lent exceeds £5.

\$ 20.

\$ 20

\$ 4.

12. Such sums respectively shall be in lieu of and taken as a full satisfaction for all interest due and charges for warehouse room. 14, 15 V. c. 82, s. 6.

Which shall cover warehouse room.

13. The party entitled to and applying for the redemption of goods pawned, within fourteen days from the end of the first month after the same were pledged, may redeem such goods upon paying the rate or profit payable for one month and a half, but if redeemed after the expiration of the first fourteen days, and before the end of the said second month, the Pawnbroker may take a rate or profit of the whole second month, and the like regulation and restriction shall take place in every subsequent month wherein application is made for redeeming goods pawned. 14, 15 V. c. 82, s. 8.

Time when and terms on which pawns redeemable.

(or) 5/6 of a cent

14. In all cases where the lowest fraction of the sum to be received by any Pawnbroker from persons offering to redeem goods is less than one Half-penny, the Pawnbroker may receive the Half-penny for the said fraction from the person redeeming the goods. 14, 15 V. c. 82, s. 9.

Fractions.

15. Every Pawnbroker shall cause to be painted or printed in large legible characters the rate of profit by this Act allowed to be taken, and also the various prices of the notes or memoranda to be given according to the rates hereinafter mentioned, and an account of such as are to be given gratis, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed or fraudulently obtained, and shall place the same in a conspicuous part of the shop

Rates to be exhibited.

shop or place where the business is carried on, so as to be visible to and legible by persons pledging goods. 14, 15 V. c. 82, s. 10.

Entries to be made by pawnbrokers.

16. Every Pawnbroker who takes any goods by way of pawn or pledge whereon a sum above ~~Five Shillings~~ is lent, shall, before he advances or lends the money thereon, enter in a fair and regular manner in a Book to be kept by him for that purpose, a description of the goods received in pawn, pledge or exchange, and the sum lent thereon, with the day and year, and name of the person by whom pawned, and the name of the street and number of the house, if numbered, where such person abides, and whether he be a lodger in or the keeper of such house, by using the letter L if a lodger, and the letter H if a housekeeper, and also the name and place of abode of the owner, according to the information of the person pawning the goods, into all which circumstances the Pawnbroker shall enquire of the party before any money is advanced, and if the sum lent does not exceed ~~Five Shillings~~ a similar entry shall be made within four hours after the goods have been pawned. 14, 15 V. c. 82, s. 11.

If above ten shillings lent.

17. Every pledge upon which there is lent above ~~Ten Shillings~~, shall be entered in a Book to be kept for that purpose, and to be kept separate from all other pledges, and every such entry shall be numbered in the Book progressively as such goods are pawned in the following manner, viz: the first pledge that is received in pawn No. 1, the second No. 2, and so on until the end of the month, and so on in every succeeding month throughout the year, and upon every note respecting such pledge shall be written the number of entry of the pledge so entered in the Book aforesaid.

Note to be given to the pawnner.

18. At the time of taking any pawn, a note or memorandum written or printed, shall be given to the person pawning, pledging or exchanging the same, containing a description of the goods pawned, pledged or exchanged, and also of the money advanced thereon, with the day of the month and year, and the names and places of abode, and numbers of the houses of the parties, and whether lodgers or housekeepers by using the letters aforesaid, and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of abode of the Pawnbroker, which note or memorandum the party pawning the goods is required to take, and unless he takes the same, the Pawnbroker shall not receive and retain the pledge. 14, 15 V. c. 82, s. 11.

Fees therefor.

19. When the sum lent is under ~~Five Shillings~~, the note aforesaid shall be given gratis.

If the sum lent is ~~Five Shillings~~ and under ~~Ten Shillings~~, the Pawnbroker may take One Half-penny;

(or 5/6 of a cent)

\$ 1

\$ 1.

\$ 2

\$ 1.

\$ 1. \$ 2

~~If Ten Shillings and under Twenty Shillings, he may take One Penny;~~

or 1 2/3 cents

~~If Twenty Shillings and under Five Pounds, he may take Two Pence;~~

or 3 1/3 cts

5 If Five Pounds and upwards, he may take Four Pence. *Ibid.*

6 2/3 cts.

20. The note shall be produced to the Pawnbroker before he is obliged to re-deliver the goods, except as hereafter provided. 14, 15 V. c. 82, s. 11.

The note to be afterwards produced.

10 21. A duplicate of the said note or memorandum shall be affixed to the goods pledged, and in all cases where goods pawned are redeemed, the Pawnbroker shall write or indorse, or cause to be written or endorsed on every duplicate, the profit taken by him for the pledge, and shall keep the duplicate in his custody for one year next following. 14, 15 V. c. 82, s. 11.

A duplicate to be affixed to the goods.

15 22. If any person knowingly and designedly pawns, pledges or exchanges, or unlawfully disposes of the goods of any other person, not being employed or authorized by the owner so to do, any Justice of the Peace resident nearest to the place where the offence has been committed, may grant his Warrant to apprehend the offender; and if he is thereof convicted by the oath of one witness, or by confession, before a Justice of the Peace, he shall forfeit not more than ~~Five Pounds~~, nor less than ~~Twenty Shillings~~, and also the value of the goods pawned, and if not forthwith paid, the convicting Justice shall commit him to the common Gaol of the District or County where the offence was committed, there to remain and be kept to hard labor for not more than three months, unless the forfeiture be sooner paid. 14, 15 V. c. 82, s. 12.

Penalty for pawning goods of others.

420.
84.

20 23. The said forfeitures when recovered shall be applied towards making satisfaction thereout to the party injured, and defraying the costs of the prosecution, as may be adjudged reasonable by the convicting Justice. 14, 15 V. c. 82, s. 12.

Forfeitures, how applied.

25 24. If any person counterfeits, forges, or alters any note or memorandum given by a Pawnbroker for goods pledged, or causes or procures the same to be done, or utters, vends, or sells such note or memorandum, knowing the same to be counterfeited, forged or altered, with intent to defraud any person, such offender shall be punished as hereafter mentioned. 14, 15 V. c. 82, s. 13.

Forging pawnbroker's notes, &c.

40 25. In case any note or memorandum aforesaid is uttered, shown or offered to any person, and such person has reason to suspect that the same has been forged, he may seize the person offering the same, and deliver him to a Bailiff or Constable, who shall convey him before some Justice of the place where

Persons suspected of forging--how dealt with.

the

the offence has been committed, or nearest thereto, and if upon examination it appears to the satisfaction of such Justice that such person is guilty, he shall commit him to the Common Gaol of the District or County for any time not exceeding three months. 14, 15 V. c. 82, s. 13.

Consequences
of not giving
account of
goods offered
to be pawned.

26. If any person offers to any Pawnbroker, by way of pawn or pledge or of exchange or sale, any goods, and is not able or refuses to give a satisfactory account of himself or of the means whereby he became possessed of the goods, or wilfully gives any false information to the Pawnbroker or his servant as to whether such goods are his own property or not, or as to his name and place of abode, or as to the owner of the goods, or if there is any other reason to suspect that such goods have been stolen or otherwise illegally or clandestinely obtained, or if any person not entitled, nor having any color of title by law to redeem goods that have been pawned, shall attempt to redeem, the person to whom the goods first above mentioned are offered to be pawned or to whom the offer to redeem the goods in pawn is made, may seize and detain the person offering to pawn and the goods offered to be pawned, or the person offering to redeem as aforesaid, and shall convey such person to redeem, and immediately deliver the person so offering to pawn and the goods offered to be pawned, or the person offering to redeem, into the custody of a Peace Officer or Constable, who shall, as soon as may be, convey such person and goods, or such person, as the case may be, before a Justice of the District or County. 14, 15 V. c. 82, s. 14.

If a J. P. suspects goods to have been stolen.

27. If such Justice, upon examination and enquiry, has cause to suspect that the said goods have been stolen or illegally or clandestinely obtained, or that the person offering to redeem hath not any pretence or color of right so to do, he shall commit the offender into safe custody for such reasonable time as may be necessary for obtaining proper information in order to be further examined, and if upon either examination it appears to the satisfaction of the Justice that the said goods were stolen or illegally or clandestinely obtained, or that the person offering to redeem had not any pretence or color of right so to do, he shall unless the offence authorised or such commitment by any other law, commit the offender to the Common Gaol of the District or County where the offence was committed, for any time not exceeding three months. 14, 15 V. c. 82, s. 14.

Consequences
of taking
goods in pawn
from journey-
men.

28. If any person knowingly buys or takes in pawn, or exchange from any journeyman mechanic, any goods of any manufacture or of any part or branch of any manufacture, either mixed or separate, or any materials plainly intended for manufacturing any goods after such goods or materials have been put into

into a state for any process or operation to be thereupon or there-
with performed, and before such goods or materials have been
finished for the purpose of wear or consumption, or any goods,
materials, linen or apparel which have been entrusted to any per-
son to wash, scour, iron, mend, manufacture, work up, finish
or make up, and is convicted thereof upon confession, or on
the oath of one witness, before a Justice of the District or
County where the offence was committed, he shall forfeit the
sum lent thereon, and forthwith restore the said goods or mate-
rials to the lawful owner. 14, 15 V. c. 82, s. 15.

29. If the owner of goods of any manufacture, or of
any part or branch of any manufacture, either mixed or sepa-
rate, or any materials plainly intended for manufacturing any
goods after such goods or materials have been put into a state for
any process or operation to be thereupon or therewith performed,
and before such goods or materials have been finished for the
purpose of wear or consumption, or of any linen or apparel
which has been entrusted to any person to wash, scour, iron,
mend, manufacture, work up, finish or make up as aforesaid,
or any other goods whatsoever, which have been unlawfully
pawnd or exchanged, makes out either on his oath or by the oath
or solemn affirmation of one witness, before a Justice aforesaid
where such offence has been committed, that there is just cause
to believe or to suspect that any person hath taken to pawn or ex-
change any such goods without the owner's knowledge, and
makes appear probable grounds for such suspicion, such Justice
may issue his Warrant for searching within the hours of business,
the books, house, warehouse or any other place of the person
so charged as suspected of having received the same without
request made to him by any Peace Officer authorized to search,
refuses to exhibit his pledge books, or to open such place as
required to permit search to be made, the Peace Officer may
break open the house, warehouse or other place on the said
premises within the hours of business, and search as he may
think fit for the goods suspected to be there, taking care to do
no wilful damage, and no person shall oppose the same. 14,
15 V. c. 82, s. 16.

Proceedings
by owners of
goods illegally
pawnd.

Search war-
rant.

30. If after such refusal and upon forced search, any
goods so pawnd or exchanged as aforesaid are found, and the
property of the owner is made out to the satisfaction of the Jus-
tice, by the oath or solemn affirmation of one witness, or by the
confession of the person charged, the Justice shall cause the
goods to be forthwith restored to the owner, and the occupier
shall be fined not less than ~~Two~~ nor more than ~~Five Pounds~~,
to be recovered as other fines before mentioned. 14, 15 V. c.
82, s. 16.

Of goods found
concealed.

\$ 8.
\$ 20.

31. In case within one year after any goods have been pawnd
or pledged for securing money lent, the pawnd, or other person
on

If goods not
redeemed

within a year
and pawn-
broker refuses
to restore.

on his behalf, tenders to the person who lent the money, the note or memorandum required to be given by this Act, and also the principal money borrowed, and the profit according to the rates of this Act, and the person who took the goods in pawn neglects or refuses, without reasonable cause, to deliver back the goods so pawned, the pawner may make oath thereof before a Justice of the District or County where the offence has been committed, and such Justice shall cause such person to come before him, and shall examine on oath the parties themselves, and such other credible persons as appear before him touching the premises, and if tender of the note or memorandum, with the principal sum lent, and all profit thereon, is proved on oath to have been made within the time aforesaid, then on payment by the borrower of such principal money and the profit due thereon to the lender, and in case the lender refuses to accept thereof on tender before the Justice, such Justice shall thereupon, by order under his hand, direct the goods so pawned forthwith to be delivered to the pawner, and if the lender neglects or refuses to deliver up or make satisfaction for the goods as such Justice orders, the Justice shall commit him to the Common Gaol of the District or County where the offence was committed, until he delivers up the goods according to the order, or makes satisfaction for the value thereof to the party entitled to the same. 14, 15 V. c. 82, s. 17.

Holder of note
to be consider-
ed owner.

32. The person who produces the note or memorandum aforesaid and requires a delivery of the goods mentioned therein, shall be deemed the owner, so far as concerns the person who has the goods in pledge, and the Pawnbroker, on receiving the principal and profit aforesaid, shall deliver the goods to the person producing the note or memorandum, and he shall be indemnified, unless he has had notice in writing from the real owner not to deliver the goods to the person producing the note or memorandum. 14, 15 V. c. 82, s. 18.

Proceedings if
pawnbroker
notified not to
deliver.

33. In case a Pawnbroker has had such previous notice, or in case the note or memorandum has been lost, mislaid, destroyed, or fraudulently obtained from the owner, and the goods mentioned therein are unredeemed

1. The Pawnbroker with whom the goods have been pledged, shall, at the request of the person who represents himself as the owner thereof, deliver to such person a copy of the note or memorandum, with the form of an affidavit of the particular circumstances attending the case written thereon, as the same are stated to him by the party applying for the goods;

2. The person receiving such copy and form of affidavit shall thereupon prove his property in or right to the goods to the satisfaction of some Justice of the Peace, and shall also make oath to such affidavit, before such Justice, of the truth of the particular circumstances attending the case therein mentioned;

3.

3. The ~~Pawnbroker~~ shall then suffer the person proving such property to redeem the goods on leaving such copy of the note or memorandum, and the affidavit, with him the Pawnbroker ;

Handwritten: \$1, \$1.00, \$4, or 3/3 cts, 5 cts
4. In case the money lent does not exceed ~~Five Shillings~~, the Pawnbroker may receive for such copy and affidavit ~~One Penny~~; if above ~~Five Shillings~~, and not exceeding ~~Twenty Shillings~~, ~~Two Pence~~; and if above ~~Twenty Shillings~~, ~~Three Pence~~. 14, 15 V. c. 82, s. 19.

34. All pawned goods shall be deemed forfeited, and may be sold at the expiration of one year from the time of pawning the same, exclusive of the day on which they were pawned. 14, 15 V. c. 82, s. 20. *When goods may be sold.*

35. When the sum lent exceeds ~~Ten Shillings~~, the goods shall be sold by the Pawnbroker at public auction, and not otherwise. 14, 15 V. c. 82, s. 20. *At public auction.*

36. Before such public sale, the goods shall be exposed to public view, and a catalogue thereof published, containing the name and place of abode of the Pawnbroker, a description of the goods separately, the month the goods were received in pawn, and the number of the pledge ; and an advertisement giving notice of such intended sale, and containing the name and abode of the Pawnbroker, and the month the goods were received in pawn, shall be inserted on two several days in some public newspaper, two days at least before the day of sale. 14, 15 V. c. 82, s. 20. *Before sale goods to be exposed to view.*

37. In case the goods be not described separately in the catalogue, the Pawnbroker shall forfeit to the owner of the pledge not less than ~~Forty Shillings~~ nor more than ~~Ten Pounds~~, to be recovered as other fines under this Act. 14, 15 V. c. 82, s. 20. *Penalty for not properly describing.*

38. Every Pawnbroker shall enter in a Book, to be kept for that purpose, a just account of the sale of such goods by auction, expressing therein the day of the month the same were pledged, the name of the person who pledged, the day when, and the money for which each pledge was sold, and the name and abode of the auctioneer. 14, 15 V. c. 82, s. 21. *Account of sales to be kept and booked.*

39. In case such goods have been sold for more than was due thereon, and in case of demand within three years after the sale, the overplus shall, after deducting the necessary costs and charges of the sale and catalogues, be paid, to the person by whom or on whose account the goods were pawned. 14, 15 V. c. 82, s. 21. *Disposal of surplus.*

40. The person who pawned such goods, or the person for whom they were pawned, shall be permitted to inspect the entry. *Pawner may inspect entries.*

entry made of such sale, on paying ~~Three Pence~~ for the inspection. 14, 15 V. c. 82, s. 21.

Consequence of refusal to permit.

41. In case the Pawnbroker refuses an inspection of such entry to the person who pawned the goods, or to his executor, administrator or assignee, upon the production of the letters testamentary, letters of administration or assignment, or in case the goods were sold for more than the sum entered in such Book, or in case the Pawnbroker did not make such entry, or did not *bona fide* sell the goods according to this Act, or refuses to pay the overplus on demand, he shall forfeit ~~Ten Pounds~~, and treble the sum the goods were originally pawned for, to the person by whom or on whose account they were pawned, to be recovered as other fines under this Act, and if such forfeiture is not forthwith paid, the sum shall be levied by distress by Warrant of the Justices before whom the conviction is had. 14, 15 V. c. 82, s. 21.

Pawnbrokers not to purchase goods except at public auction.

42. No Pawnbroker having goods in pledge shall, either by himself or by any other person for him, except at public auction, purchase such goods during the time they remain in his custody, as a pledge. 14, 15 V. c. 82, s. 22.

No Pawnbroker shall,

Restrictions upon pawnbrokers.

1. Purchase, receive or take any goods in pledge, from any person who appears to be under the age of fifteen years old, or to be intoxicated with liquor; nor
2. Shall he purchase or take in pawn, pledge or exchange, the note or memorandum aforesaid of any other Pawnbroker;
3. Nor employ any servant or other person under sixteen years of age to take any pledge;
4. Nor receive any goods by way of pawn, pledge or exchange, on any Fast or Thanksgiving day appointed by authority, or on Sunday, nor on any other day, before eight o'clock in the morning, nor after eight o'clock in the evening, except on Saturday evenings, and the evenings preceding Good Friday and Christmas day at which last times the Pawnbroker may keep his place of business open until ten o'clock in the evening. 14, 15 V. c. 82, s. 22.

If goods lost or damaged. Award.

43. In case it appears or is proved on oath before a Justice of the Peace, that the goods pawned were sold before the time limited, or have been embezzled or lost, or have become of less value than when pawned through the neglect or wilful misbehaviour of the Pawnbroker or his servants, the Justice shall award a reasonable satisfaction to the owner in respect of such damages. 14, 15 V. c. 82, s. 23.

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44. No pawn taken of any Indian in Upper Canada for any spirituous liquor shall be retained by the person to whom such pawn may be delivered, but the thing so pawned may be sued for and recovered with costs of suit by the Indian who may have deposited the same before any Court of competent jurisdiction. 13, 14 V. c. 74, s. 7.

Pawn not to be taken from Indians for liquor.

As to order made 56.

45. In case the sum so awarded does not amount to the principal and profit due to the Pawnbroker, the pawner may pay or tender the balance; and on so doing, the Justice shall proceed as if the pawner had paid or tendered the whole money due for principal and profit as aforesaid. 14, 15 V. c. 82, s. 23.

Terms of redemption of such goods—tender of difference.

46. In case the satisfaction allowed is equal to or exceeds the principal and profit as aforesaid, the Pawnbroker shall deliver the goods so pledged to the owner without being paid any thing for the principal or profit, and also the excess, if any, under penalty of ~~Ten Pounds~~ to be recovered as penalties hereinbefore mentioned. 14, 15 V. c. 82, s. 23.

When without any tender.

\$40.

47. When the Justice thinks the production of any pawn-book, note, voucher, memorandum, duplicate or other paper necessary, which is or ought to be in the hands, custody or power of any Pawnbroker, he shall summon him to attend with the same, and the Pawnbroker shall be bound to produce the same in the state it was when the pawn was received, and in the case the Pawnbroker neglects or refuses to attend or to produce the same in its true and perfect state, he shall, unless he shews good cause to the satisfaction of the Justice, forfeit not less than ~~Five Pounds~~ nor more than ~~Ten Pounds~~, to be levied and recovered as fines herein before mentioned. 14, 15 V. c. 82, s. 24.

Pawnbroker bound to produce.

48. No Pawnbroker shall be liable to any prosecution before a Justice under this Act, unless information be given within twelve months next after the offence committed. 14, 15 V. c. 82, s. 25.

Limitation of prosecutions.

49. Such prosecution shall be before some neighbouring Justice, of the place where the offence was committed, but no person who has been convicted of fraud or felony shall prosecute or inform against any person for an offence against this Act. 14, 15 V. c. 82, s. 25.

What Justice may act. Who cannot be informers.

50. The provisions of this Act shall extend to the executors, administrators and assigns of every deceased Pawnbroker, and also to the tutor, curator, executors, administrators and assigns of the Pawner, but such tutor, curator, executor, administrator or assign shall not be answerable for any penalty personally or out of his own estate, unless forfeited by his own act. 14, 15 V. c. 82, s. 26.

Act to extend to executors, administrators, &c.

No fee on Justice's summons.

51. No fee shall be taken for any Summons or Warrant granted by any Justice under this Act so far as the same relates to goods pawned, pledged or taken in exchange. 14, 15 V. c. 82, s. 27.

Appeals to Quarter Sessions.

52. In case any person convicted of an offence punishable by this Act, thinks himself aggrieved by the judgment of the Justices before whom he has been convicted, he may appeal to the next General Quarter Sessions of the Peace for the District or County where the offence was committed. 14, 15 V. c. 82, s. 28. 10

Stay of execution pending.

53. In case of an appeal, the execution of the judgment shall be suspended, upon the person convicted entering into a recognizance, at the time of the conviction, with two sureties, in double the sum he has been adjudged to pay, to prosecute the appeal with effect, and to be forthcoming to abide the judgment and determination of the Court, and to pay such costs as may be awarded at the Sessions. 14, 15 V. c. 82, s. 28. 15

J. in S. to decide finally.

54. The Justices in Sessions shall hear and finally determine the matter of appeal, and may award either party to pay such costs as may be reasonable. 14, 15 V. c. 82, s. 28. 20

If judgment affirmed.

55. In case the judgment be affirmed, the appellant shall immediately pay the sum adjudged to be forfeited, together with such costs as the Court awards, or, in default thereof, he shall suffer the penalties inflicted by this Act upon persons who do not upon conviction pay the forfeitures hereby imposed. 14, 15 V. c. 82, s. 28. 25

C A P. L X I I.

An Act respecting Fisheries and Fishing.

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

PROTECTION OF FISHERIES.

1. The Governor in Council may grant special fishing leases and licenses on lands belonging to the Crown, for any term not exceeding nine years, and may make all and every such regulation or regulations as may be found necessary or expedient for the better management and regulation of the Fisheries of the Province. 22 V. c. 86, s. 4.

Governor in Council may grant fishing licenses, &c.

2. The Governor may, as occasion shall require, appoint two Superintendents of Fisheries, one for Upper and one for Lower Canada, whose powers and duties shall be defined by this Act and the regulations to be made under it ; but any appointment made under the fourth section of the Act twentieth Victoria chapter twenty-one, shall remain valid as if made under this Act. Four Overseers may be appointed by the Commissioner of Crown Lands, in such places, and in such divisions of territory, as may be considered necessary, to perform such duties under this Act, and the regulations to be made under it, as may be required by the Commissioner of Crown Lands, and the salary of such Overseers shall not exceed ~~one hundred~~ *four hundred* dollars per annum. 22 V. c. 86, s. 5.

Appointment and duties of Superintendents of Fisheries ;

And of Overseers of Fisheries.

four hundred dollars

3. All subjects of Her Majesty, but none other, may, for the purposes of trade and commerce---

Rights of Fishermen.

1. Take bait and fish in any of the harbours, roadsteads, bays, creeks or rivers of the Province ;

Taking bait and fishing.

2. Land anywhere on public property for the purpose of salting, curing and drying fish ;

Landing and curing fish.

3. Cut wood there for the purpose of repairing stages, drying places, flakes, hurdles, cook-rooms and other purposes necessary or useful for preparing or dealing with fish ;

Cutting wood.

4. Take possession of any unoccupied portion of the beach which may be necessary for curing fish, and hold the

Occupying beaches.

the same so long as the same shall not have been abandoned during twelve consecutive months ;

Recovering value of stages, &c. 5. Any such subject having so occupied any such portion of the beach may, during the year next after he shall have been twelve months without occupying it, demand personally or by his Attorney the value of his flakes and stages and other property, of which a new occupant shall have taken possession ; and

Carrying away improvements, &c. 6. Carry away his buildings and improvements, after the close of the fishing season, after having so demanded the value thereof, if he shall not have received the same from the new occupant. *Ibid.*, s. 6.

Sect. 3 not to affect private or Crown property, &c. 4. But nothing contained in the third section shall affect private property or prevent the Crown from disposing or taking possession of any public land or beach so occupied for fishing purposes. *Ibid.*, s. 7.

Waters may be set apart for propagation of fish. 5. The Governor in Council may cause to be set apart any river or other water for the natural or artificial propagation of Salmon, Trout, or other fish. *Ibid.*, s. 8.

Fishing within the King's Posts. 6. The Governor in Council may grant permission to fish in the Rivers within the King's Posts. *Ibid.*, s. 9.

Throwing ballast, offal, &c., prohibited. 7. Whoever throws overboard ballast in any river, harbour or roadstead, where fishing is carried on, or the remains of offal of fish, in any such river, or within three miles of the coast of the mainland, or of any island, or on any bank, shall incur a fine not exceeding ~~twenty pounds~~ and the Master or Owner of such Vessel or Boat, from which such ballast or offal of fish shall have been thrown, shall be held liable for every such offence ; Provided always that it shall be lawful for any person to bury such offal of fish on the mainland or any island at a distance of not less than an acre from the beach thereof. *Ibid.*, s. 11.

Impeding fishing. 8. No one shall anchor near the shore in such a manner as to impede the throwing and hauling of seines, or the setting of standing nets. *Ibid.*, s. 12.

The same. 9. No one shall set standing nets in such a manner as to impede the throwing or the hauling of seines. *Ibid.*, s. 13.

Impeding navigation. 10. No one shall set seines or nets in such a manner as to impede the navigation or anchorage in any bay, harbour or roadstead, or other place required for navigation. *Ibid.*, s. 14.

Penalty for contravening sections, shall for each offence incur a fine not exceeding ~~five pounds~~

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~~pounds~~, and shall nevertheless remain liable for any damage sects. 12, 13, which the party injured by such contravention may recover 14. against him by Law. *Ibid.*, s. 15.

5 **12.** Any person who shall for fishing purposes have placed Penalty for re- in any river, or in the sea, near the shore, any stake or other moving fish- timber whatever, shall, on pain of a fine not exceeding ~~five~~ ing stakes. ~~pounds~~, remove the same within eight days from that on which \$ 20. it shall have been last used. *Ibid.*, s. 16.

10 **13.** No one shall, between the first of May, and the first of Exemption of November in any year, seize or attach any boat or vessel, fishing tackle tackle, net, seine or other fishing utensils, or any provisions, from seizure, belonging to any fisherman, or necessary for his subsistence, &c. or his fishing operations, except for the recovery of penalties or Exception. fines imposed under this Act. *Ibid.*, s. 17.

15 **14.** Any person, who, having been engaged by any written Penalty for agreement to fish on any conditions, or assist in any fishing, deserting fish- refuses to fulfill any such engagement, or shall abandon ing service. his employer's service, during the term of his engagement, \$ 40 shall ~~thereby~~ incur a fine not exceeding ~~ten~~ 10 pounds, or im- \$ 40 prisonment for not more than one month. *Ibid.*, s. 18.

20 **15.** Whoever engages or endeavours to engage any per- Or seducing son then engaged as aforesaid in any way to fish, or assist in away persons any fishery, shall thereby incur a penalty not exceeding ~~ten~~ engaged there- ~~pounds~~, or imprisonment for not more than one month. *Ibid.*, from. \$ 40 s. 19.

25 **16.** Any ~~person~~ engaged to fish, or assist in any fishery, Lien in favor shall, for securing his wages, or share, have a first lien, prefer- of fishermen. able to that of any other creditor, upon the produce of his 1 employer's fishery, and may recover the sum or share due to 30 him before the nearest competent tribunal. *Ibid.*, s. 20.

35 **17.** With a view to protect the Oyster Beds to be formed Penalty for ~~in the~~ different parts of the Canadian bays and coasts, disturbing it shall not be lawful for any ~~person to~~ take Oysters, oyster beds, or in any way to injure or disturb such Oyster Beds, until except at permitted to do so, by an order from the Commissioner of Crown times permit- Lands, which order shall be published in the Official Gazette ted by order and in such other newspapers as the Commissioner may direct, of the Com- under a penalty of not more than ~~twenty five~~ missioner of ~~pounds~~, together with the forfeiture of the vessel and Crown Lands. \$ 100. \$ 40. than ~~ten~~ 40 pounds, all the apparatus employed therein. *Ibid.*, s. 21.

45 **18.** No one shall use Mackerel, Herring, nor Caplin seines, Meshes of cod for the taking of Codfish; and no Codfish seine shall be of a seines not to less sized mesh than three inches in extension in the arms, and be under a and two and a half inches in the bunt or bottom of the seine, certain size. under penalty, and on pain of the forfeiture of the seine. *Ibid.*, 19. s. 22.

Nets not to be used in Burlington Bay, &c. **19.** No one shall fish with any kind of net or seine in Burlington Bay nor in Dundas Marsh, nor shall any person set any net or other device whatsoever, so as to prevent the free passage of the fish to and from the said Bay. *Ibid.*, s. 23.

Period for salmon fishing limited. Exception as to fly-fishing. **20.** No one shall fish for, catch or kill salmon in any way whatever, between the first day of August and the first day of March in any year; Except only, that it shall be lawful to fish for salmon, with a rod and line, in the manner known as fly-surface-fishing, from the first of March to the first of September in any year, in Upper or Lower Canada. *Ibid.*, s. 24.

Also killing at certain places. **21.** No one shall use any net, or take salmon in any way whatever, at any salmon-leap, or where any artificial salmon pass shall have been constructed, nor in any pools or ponds where salmon are wont to spawn. *Ib.*, s. 25.

Main channel of Rivers not to be obstructed. **22.** Whoever obstructs the main channel or course of any river, either by placing therein nets or fishing apparatus of any kind, or any obstacle of any kind whatever, for the purpose of taking salmon or any other species of fish, shall thereby incur for each offence, a fine not exceeding ~~Five Pounds~~, and the forfeiture of his fishing apparatus; and in no case shall the said channel or course so left open be less than one third of the whole breadth of such river. *Ibid.*, s. 26.

Fishways to be attached to dams. **23.** The owner of any dam or slide where fish may ascend, shall, for the purpose of affording a passage to the fish, attach and maintain to each dam or slide, a fishway of such form and dimensions as shall be determined by the Superintendent of Fisheries, under a penalty of ~~One Pound~~ for each day on which he shall fail so to do after two months' notice by the Superintendent. *Ibid.*, s. 27.

Penalty for taking salmon in contravention of sec. 20. **24.** Any Salmon taken in contravention of the twentieth section of this Act, shall subject all parties concerned in the breach of the said section, whether the actual transgressors or accessories, to a penalty of not more than ~~ten pounds~~, nor less than ~~five pounds~~, together with the forfeiture of the fish, canoe, boat or other vessel in which the fish may have been placed, or to imprisonment for a period of not more than six months, nor less than three months. *Ibid.*, s. 28.

Size of meshes of salmon nets. **25.** The meshes of any net used for the taking of Salmon shall not be less than five inches in extension, ~~knot to knot~~, under penalty and on pain of forfeiture of the nets. *Ibid.*, s. 29.

No net to be less than two inches mesh. **26.** No one shall fish with any net or seine whatever, of a less sized mesh than one and a half inches on the square in any Lake, River or Bay, or in any of the waters of Upper Canada. *Ibid.*, s. 30.

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27. No one shall fish for, catch or kill any kind of trout in any way whatever, between the twentieth of October and the first of February in any year, in Lower Canada. *Ibid.*, s. 31. Period for killing trout ;
28. No one shall kill any kind of speckled trout, in any way whatever between the twentieth of October and the first of April in any year ; nor shall any Speckled Trout be killed at any time by means of nets or seines in any Inland Lake, River or Stream in Upper Canada. *Ibid.*, s. 32. And for killing speckled trout. Not to be taken with nets in U. C. ;
29. No one shall catch trout, by means of nets or seines, in any lake or river, or at the outlet or inlet of any lake, or in any river except the River St. Lawrence, in Lower Canada. *Ibid.*, s. 33. Nor in L. C., at certain places.
30. Except in the Lakes Huron and Superior, no one shall catch Salmon-trout between the fifteenth day of November and the first day of February. *Ibid.*, s. 34. Time for killing salmon-trout, &c.
31. Except as aforesaid no one shall catch Maskinongé, Pickerel, nor Black Bass, between the fifteenth of March and the fifteenth day of May. *Ibid.*, s. 35. And for certain other fish.
32. No one shall buy, sell or have in possession any Salmon, Salmon-Trout, nor any kind of Trout, Bass, nor Maskinongé, taken in contravention of this Act ; and any fish so taken may be declared forfeited by any Magistrate whomsoever, and any person so found in possession of any of the aforementioned fish, or of any part or portion thereof, shall be held to have obtained the same in violation of the provisions of this Act, except only upon legal proof to the contrary, which proof shall devolve wholly upon the person accused. *Ibid.*, s. 36. Fish not to be bought or sold in the close season. Proof.
33. No one shall construct any fish pound in any river. *Ibid.*, s. 37. Fish-pounds.
34. The Superintendent of Fisheries may grant written permission to any person or persons who may be desirous of obtaining spawn for *bond fide* artificial or scientific purposes, to fish for that purpose, during the close season. And any person who wilfully injures or destroys any place set apart for the artificial propagation of fish, shall incur a fine of not less than ~~two~~ pounds nor more than ~~ten~~ pounds. *Ibid.*, s. 38. Permission may be given to take fish for spawn in the close season, &c.
35. Every subject of Her Majesty, who was in peaceable possession of any fishing Station on the sixteenth of August, one thousand eight hundred and fifty-eight, shall be deemed the owner thereof, for the purposes of this Act and he shall be deemed so to be if he has not abandoned it during twelve consecutive months ; and no other person shall set therein any apparatus for catching fish so as to injure his fishery. *Ibid.* s. 39. Right of possession in fishing stations.

Lime and drugs not to be used to catch fish.

36. No one shall throw lime, or any chemical substance or drug, into any water frequented by any one of the kind of Fish mentioned in this Act, and any person found guilty of having thrown lime or any other chemical substance or drug in such waters shall be subjected to a penalty of not less than ~~five pounds~~ ⁵ and not more than ~~ten pounds~~ for each offence. *Ibid.*, s. 40.

Penalty.

Recovery of penalties.

37. Every penalty or forfeiture imposed by this Act or the regulations to be made under it, may be recovered on complaint before the Superintendent of fisheries, or any Stipendiary or other Magistrate, in a summary manner, upon the oath of one credible witness; and the proceedings and the costs to be recovered shall be the same as provided by law in either Section of the Province in other cases where summary jurisdiction is given to Magistrates, except in so far as it may be otherwise herein provided. *Ibid.*, s. 41.

Penalty where no other is provided.

38. In every case of contravention of this Act, or of the regulations to be made under it, for which no other penalty is provided, the offender shall incur a fine of not less than ~~two pounds~~ nor more than ~~five pounds~~. *Ibid.*, s. 42

Limitation of suits.

39. All penalties incurred under this Act must be sued for within twelve months from the commission of the offence. *Ibid.*, s. 43.

Committal for non-payment.

40. Any offender who does not forthwith pay the fine and costs he has been condemned to pay, shall be committed to Gaol for a term of not less than one month, nor more than six months, at the discretion of the Magistrate before whom the offender has been convicted. *Ibid.*, s. 44.

Delay between service and return.

41. There shall not be less than three days between the service and the return of the Summons to any Defendant, for the first five leagues, and one day more for each additional five leagues, of the distance between the place at which the Summons is dated and the place where it is served. *Ibid.*, s. 45.

Conviction on view.

42. The Superintendent of Fisheries, or any Stipendiary or other Magistrate, may convict upon view, of any of the offences punishable under the provisions of this Act. *Ibid.* 35 s. 46.

Defendant compellable to appear immediately in certain cases.

43. When the defendant is not a resident in the Province, and it is expedient to proceed against him without delay, the Superintendent of Fisheries, or any Stipendiary or other Magistrate may, upon complaint, issue a Summons returnable immediately, to compel the defendant to appear before him without delay, or he may issue a Warrant for the apprehension of such defendant simultaneously with the Summons. *Ibid.*, s. 47.

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44. The Superintendent of Fisheries, or any Stipendiary or other Magistrate, may search, or grant a warrant to have searched, any vessel or place where he may have cause to believe that any fish taken in contravention of this Act, may have been concealed. *Ibid.*, s. 48.

Searches and search warrants in certain cases.

45. One moiety of the pecuniary fines and of the forfeitures under this Act, or under the regulations to be made by virtue thereof, shall belong to Her Majesty, and the other moiety to the complainant. *Ibid.*, s. 49.

Application of fines and forfeitures.

46. The Governor in Council may from time to time make rules and regulations for preventing or regulating the fishing with nets or seines, the use of fishing lights, or the erection or use of weirs for eels or other fish in any harbour, river or public water within Upper Canada, and for regulating fisheries carried on either upon the sea shore or upon any waters adjacent to or passing through any County in Lower Canada. 22 V. c. 86, ss. 10, 60—12 V. c. 81, s. 60, No. 18,—18 V. c. 100, s. 19. —See 20 V. c. 21.

Power to make regulations transferred to Governor in Council.

WHITE FISH IN THE RIVERS NIAGARA, DETROIT AND ST. CLAIR.

47. Any person who uses, or employs, or causes to be used or employed, any seine or other nets of a greater length than fifty fathoms, for the taking of White-Fish in any of the Rivers Detroit, Saint Clair, or Niagara, within Upper Canada, shall for every such offence, forfeit the sum of ~~one hundred and twenty-five pounds~~ 3 W. 4, c. 29, s. 1,—22 V. c. 86, s. 30.

Penalty of ~~\$25~~ imposed on persons using seines in certain rivers.

\$500

\$500.

48. Any person found fishing for White-Fish in either of the said Rivers within Upper Canada, with seines, gill-nets or other nets, on the first day of the week, called Sunday, shall forfeit for every such offence the sum of ~~fifty pounds~~ 3 W. 4, c. 29, s. 2.

Penalty for fishing on Sunday.

\$200?

WHITE-FISH IN UPPER CANADA.

49. Any person who attempts to divert the natural progress or running of the White-Fish within Upper Canada, by shingling or other device, shall forfeit for every such offence the sum of ~~one hundred and twenty-five pounds~~, or be imprisoned, not exceeding three months, at the discretion of the Court. 3 W. 4, c. 29, s. 3.

~~\$25~~ penalty for diverting the progress of fish from their accustomed channel.

\$500.

50. All forfeitures incurred under the three last preceding sections of this Act may be recovered by action of debt, with costs of suit, before any Court having competent jurisdiction; one moiety thereof to the person who sues for the same, and the other moiety to be paid into the hands of the Receiver General. 3 W. 4, c. 29, s. 5.

Penalty how to be recovered and applied.

FORMS WHICH MAY BE USED UNDER THIS ACT.

Forms.

51. Complaints under this Act may be in the form A;— Summonses in the form B;—Suppcenas in the form C;—Convictions in the form D,—and Warrants in the form E., of the Schedule hereunto annexed, or in any other form; and in other respects the Acts relative to Summary Convictions by Justices of the Peace shall apply to cases under this Act, and the Superintendent of Fisheries shall, as regards such cases, be deemed a Justice of the Peace for that section of the Province for which he is appointed, whether otherwise qualified or not; and in any proceeding under this Act, an offence against any regulation made under this Act may be stated as an offence against this Act. 22 V. c. 86, s. 51.

DEVELOPEMENT AND ENCOURAGEMENT OF FISHERIES.

And for the further developement of the fisheries of the Province, and for the encouragement of all parties, residents of Canada, who may engage therein, it is further enacted, That—

Bounty to Canadian fishing vessels.

52. The owner or owners of a vessel built in Canada, when employed in the following fisheries, viz: Seals, Codfish, Mackarel, Herring or Whale, or at least three consecutive months, shall be entitled to a bounty of—*Ibid.*, s. 52.

1. Three dollars per ton, for three months consecutive fishing;
2. Three dollars and a half per ton for three months and a half, consecutive fishing;
3. And four dollars per ton for four months consecutive fishing... But no vessel shall receive the bounty for more than one voyage.

How such vessels must be manned;

53. All vessels, to be entitled to the bounty, must be manned in accordance with the following rates, viz: *Ibid.*, s. 53.

Vessels from 20 to 40 tons, to carry 8 men;

Vessels from 40 to 60 tons, to carry 10 men;

Vessels from 60 to 80 tons, to carry 12 men;

And registered;

And such vessel or vessels must be registered in the Office of the Collector of Customs in accordance with the provisions of this Act and of the Law, and the tonnage for the purposes of this Act shall be calculated as provided by the Act respecting "The Registration of Inland Vessels."

54. The owner or owners of all vessels about to be employed in the Fisheries having conformed to the regulations of this Act, must obtain a license from the Superintendent of Fisheries or from the nearest Collector of Customs. *Ibid.*, s. 54. **And licensed.**
55. The vessel to be entitled to the bounty, must be manned by at least three-fourths British Canadian subjects. *Ibid.*, s. 55. **Crew to be three-fourths Canadian.**
56. No vessel, not the property of a Canadian British subject shall be entitled to the bounty. *Ibid.*, s. 56. **And the vessel owned.**
57. No vessel under twenty tons register, shall be entitled to receive the bounty. *Ibid.*, s. 57. **Not under 20 tons.**
58. The bounty shall not be given for more than eighty tons, even should the vessel exceed that tonnage. *Ibid.*, s. 58. **No bounty for more than 80 tons.**
59. No owner of a vessel shall be entitled to receive the bounty, unless the fish taken have been inspected in accordance with the Act respecting the Inspection of Fish and Oil. *Ibid.*, s. 59. **Fish must be inspected.**
60. No vessel, employed as aforesaid shall be entitled to the allowance granted by this Act, unless the master or owner thereof, before he proceeds on any fishing voyage, makes an agreement in writing or print with every fisherman employed therein. *Ibid.*, s. 60. **Fishermen must be under articles.**
61. If any duly licensed vessel be wrecked on her homeward voyage, upon its being proved (under oath) that she has been engaged in the fisheries, the owner thereof shall receive such portion of the bounty as he is proved to be legally entitled to. *Ibid.*, s. 61. **As to fishing vessels wrecked.**
62. No trading vessel or vessels engaged in carrying cargoes during the fishing season, shall be entitled to receive the bounty. *Ibid.*, s. 62. **Fishing vessels not to carry cargoes.**
63. One third of such bounty shall be distributed between the crew of the fishing vessel in equal proportions, and the remaining two thirds to the owner thereof--or the bounty may be distributed, as agreed upon by an instrument or declaration to be made in writing by the parties. *Ibid.*, s. 63. **Bounty divided between crew and owner.**
64. When any vessel has ended her fishing voyage, the owner thereof must report to the Superintendent of Fisheries or to the nearest Collector of Customs who, upon proof given under oath, may grant a certificate that the owner of such vessel is entitled to the bounty. *Ibid.*, s. 64. **Report when the voyage is ended.**
65. Any company formed for the purpose of carrying on the fisheries, shall receive such portions of the bounty, as accords with

with the number of shares, individually held by the members of such association. *Ibid.*, s. 65.

66. All parties entitled to a bounty shall transmit or cause to be transmitted to the Superintendent of Fisheries, the certificate shewing that they are entitled to a bounty; and upon the receipt of such certificate, the Superintendent of Fisheries may pay to such party, or his representatives, the sum to which he is entitled, after having obtained the approval of the Commissioner of Crown Lands. *Ibid.*, s. 66.

67. The said bounty shall be paid out of the revenue arising or that may arise from the lease or license of any Salmon or other fishery, but the amount of bounty to be paid shall not exceed ~~three thousand five hundred pounds per annum.~~ *Ibid.*, s. 67.

68. Any person who makes a false oath or affirmation, with intent to obtain the bounty fraudulently, upon being duly convicted thereof, in any Court of Justice having jurisdiction of such offence, shall be deemed guilty of wilful and corrupt perjury, and shall be punished accordingly. *Ibid.*, s. 68.

69. If any Vessel licensed to carry on the fishery be found within three miles of the coast with any goods, wares or merchandise of foreign produce or manufacture, except such as are necessary for the maintenance and use of the crew, such vessel together with such goods, wares or merchandise, shall be subject to seizure and forfeiture. *Ibid.*, s. 69.

70. Any Custom House, or other officer, while performing duty on board of any such vessel shall be entitled to receive from the master thereof, such provision and other accommodation, free of expense, as are usually supplied to passengers, or as the state and condition of the vessel will admit. *Ibid.*, s. 70.

71. A special registry of all vessels licensed for the Fisheries, shall be kept by the Collectors of Customs, who shall cause correct copies of the same to be sent to the Superintendent of Fisheries, on or before the first day of January in each year. *Ibid.*, s. 71.

72. The sum of ~~one hundred and fifty pounds per annum~~ (for three years) may be applied for the formation of Oyster Beds in the various bays and waters of the Province that may be found best adapted for that purpose. *Ibid.*, s. 72.

73. This Act shall be known and cited as "The Fisheries Act."

By whom and on what proof, &c., the bounty shall be paid.

Out of what funds.

False swearing, &c., to be perjury.

Licensed vessels found with foreign goods on board to be forfeited, &c.

Custom House Officers, &c., to be found in provisions, &c.

Special registry of fishing vessels, &c.

Formation of oyster beds.

Title of Act.

\$ 14,000.

\$ 600.

7

SCHEDULE A.

Form of Complaint.

Upper (or Lower) Canada, }
 County (or District) of . }

This day of , 18 .

To J. S.,
 (or a Justice of the Peace for the said County or District.)

A. B., of , complains that C. D. of , hath (*state the offence briefly in any intelligible terms, with the time and place at which it was committed,*) in contravention of the Fisheries Act; Wherefore the complainant prays that judgment may be given against the said C. D. as by the said Act provided.

(Signature) A. B.

SCHEDULE B.

Summons to Defendant.

Upper (or Lower) Canada, }
 County (or District) of . }

To C. D., of , &c.

Whereas complaint hath (*this day*) been made before me that you (*state the offence in the words of the complaint, or to like effect*) in contravention of the Fisheries Act; Therefore you are hereby commanded to come before me, at , on the day of , at o'clock in the , to answer the said complaint and be dealt with according to Law.

Witness my hand and seal, this day of , 185 .

J. S., Superintendent of
 Fisheries for Lower Canada, (or
 Justice of the Peace for ,
as the case may be.)

[L. S.]

SCHEDULE

SCHEDULE C.

Subpœna to a Witness.

Upper (or Lower) Canada, }
 County (or District) of . }

To E. F., of , &c.

Whereas complaint has been made before me that C. D. did
 (state the offence as in the *Summons*), and I am informed that
 you can give material evidence in the case ; Therefore, you are
 commanded to appear before me, at , on the day of
 , at o'clock in the
 to testify what you know concerning the matter of the said
 complaint.

Witness my hand and seal, this day of , 185 .

J. S., Superintendent, &c.,
 (as in *Summons*.)

[L. S.]

SCHEDULE D.

Form of Conviction.

Upper (or Lower) Canada, }
 District (or County) of . }

*Be it remembered, that on this day of
 18 , at , in the said County (or District,) C. D.,
 of , is convicted before me, for that he did, &c.,
 (stating the offence briefly, and the time and place where com-
 mitted,) in contravention of the Fisheries Act ; And I adjudge
 the said C. D. to forfeit (and pay) the sum of (or
 mention the thing forfeited under this Act,) to be applied accord-
 ing to law, and also to pay to A. B. (the complainant) the sum
 of for costs :

If the penalty be not forthwith paid, add,—and the said C. D.
 having failed to pay the said penalty and costs forthwith after
 the said conviction, I adjudge him to be committed to and im-
 prisoned in the Common Goal of the County (or District) of
 for the period of

Witness my hand and seal, this day of , 185 .

J. S.
 (as in *Summons*.)

[L. S.]
 SCHEDULE

SCHEDULE E.

Form of Warrant of Commitment for non-payment of penalty or forfeiture, and costs.

Upper (or Lower) Canada, }
 District (or County) of . }

To the Constables and Peace Officers of the District (or County) of _____, and the Keeper of the Common Gaol of the said District (or County), at _____ :

Whereas C. D., of _____, was, on the _____ day of _____ 18____, convicted before me, for that he, &c. (as in Conviction,) and I did thereupon adjudge the said C. D. to forfeit and pay to A. B. &c., (as in Conviction;) And whereas the said C. D. hath not paid the said penalty or forfeiture and costs. Therefore, I command you the said Constables and Peace Officers, or any of you, to convey the said C. D. to the Common Gaol for the _____ of _____, at _____, and deliver him to the keeper thereof with this warrant; And I command you the said keeper of this said Gaol, to receive the said C. D. into your custody, and keep him safely imprisoned in the said Gaol for the space of _____, and for so doing, this shall be your sufficient warrant.

Witness my hand and seal, this _____ day of _____, 18____.

J. S.

(as in Summons.)

[L. S.]

SCHEDULE F.

No. 1.

FORM OF APPLICATION FOR FISHING LICENSE.

A. B., _____, owner of the _____, built at _____, Tons register, and carrying _____ men, being about to engage in the Fisheries of the Province, requests that you will grant him a License under the Fisheries Act.

To C. D., _____
 Collector of Customs.

No. 2.

No. 2.

FORM OF FISHING LICENSE.

Your application for a License being in accordance with the requirements of the Fisheries Act of the authority given me, I hereby grant you the said License to fish in conformity therewith.

To A. B.

Owner of the

C. D.

Collector of Customs.

No. 3.

FORM OF CERTIFICATE.

A. B., owner of the register, and carrying every respect to the requirements of the law relating to bounties and having been engaged is entitled to the sum of _____ accordance with the Fisheries Act.

of _____ Tons men, having conformed in _____ months constant fishing, _____ dollars, in _____

No. 4.

FORM OF RETURN.

No 4.

NAME OF VESSEL.	OWNER'S NAME.	Tonnage.	Men.	Months.	Quantity of Fish.	Species.	Quality. By whom inspected	REMARKS.

TITLE.

TITLE 5.

TRADING COMPANIES AND CORPORATIONS.

CAP. LXIII.

An Act respecting Joint Stock Companies, for Manufacturing, Mining, Mechanical or Chemical purposes, or for the erection of Public Hotels or Baths and Bath-houses, or the opening and using of Salt or Mineral Springs, or for carrying on Fishing.

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

FORMATION OF COMPANIES.

Joint Stock
Manufacturing
and other
Companies.

1. Any five or more persons who desire to form a Company for carrying on any kind of Manufacturing, Ship-building, Mining, Mechanical or Chemical business, or for the erection of Public Hotels or Baths and Bath-houses, or for the opening and using of Salt or Mineral Springs, or for carrying on any Fishery or Fisheries in this Province or in the Gulf of St. Lawrence, and for the building and equipping of any vessels required for such fishery or fisheries, may make and sign a statement or declaration in writing, in which shall be set forth: 13, 14 V. c. 28, s. 1,—16, V. c. 172, s. 1,—22 V. c. 90, s. 1.

Contents of
statement.

1. The corporate name of the Company ;
2. The object for which the same is formed ;
3. The amount of capital stock of the Company being, in the case of Fishing Companies, not less than forty thousand dollars ; 13, 14 V. c. 28, s. 1—22 V. c. 90, s. 1.
4. The number of shares of which the stock is to consist ;
5. The annual instalments of the capital stock to be paid in ; and
6. The number and names of the Trustees who are to manage the concerns of the Company for the first year ;
7. The names of the City, Town or Village, Parish, Township or Place and District or County in which the operations of the Company are to be carried on ;
8. The term of the Company's proposed existence which shall not exceed fifty years. 16 V. c. 172, s. 1,—13, 14 V. c. 28, s. 1.

To be acknowledged in duplicate before Registrar.

2. The persons making the statement or declaration shall acknowledge the same in duplicate before the Registrar of the District or County, or his Deputy, who shall receive such acknowledgment

acknowledgment and grant a certificate thereof. 13, 14 V. c. 28, s. 1,—16 V. c. 172, s. 3.

3. One of the Duplicates of the statement or declaration shall be filed by such Registrar, or his Deputy, and an entry thereof shall be made by him in a Book to be kept for that purpose, and the other of the Duplicates with a proper certificate of the acknowledgment, filing and registration thereof endorsed thereon, shall forthwith be transmitted to, and filed in the office of the Provincial Secretary. 13, 14 V. c. 28, s. 1,—16 V. c. 172, s. 1.

Duplicates where to be filed.

4. When the formalities prescribed in the foregoing sections have been complied with, the persons who signed the said statement or declaration, and their successors, shall be a body corporate by the name mentioned therein. 13, 14 V. c. 28, s. 2, 1st part.

When Company to be a body corporate.

5. In case it be declared in the statement or declaration in duplicate required to be made as aforesaid, that the chief-place of business of the company is established in any City, Town, Village, Parish, Township, Place District or County in which a Registry Office is situate, and in case the operations of the said Company be carried on elsewhere in this Province, it shall be lawful and sufficient for the said persons forming the Company to acknowledge the said duplicate statement or declaration so required as aforesaid, before the Registrar of such City, Town, Village, Parish, Township, Place, County or District, or his Deputy, and a copy of such statement or declaration, with the certificate of the Registrar thereon, and signed by the Registrar, shall be filed by the Registrar, if such there be at the place where such operations are carried on, and shall be of like force and effect as if the personal acknowledgment by such persons of the said Statement or Declaration had been made at the place where the said operations are being carried on. 16 V. c. 172, s. 3.

If the locality of the Company be changed what to be done.

6. A copy of the whole of the registered declaration, certified by the District or County Registrar or his Deputy to be a true copy, shall be received in all Courts and places as *prima facie* evidence of the facts therein stated. 13, 14 V. c. 28, s. 3.

Certified copy to be *prima facie* evidence.

7. Compliance with the formalities prescribed for the formation of any Company, shall be conclusively established by the insertion in the *Canada Gazette* of a notice to that effect by the Provincial Secretary. 13, 14 V. c. 28, s. 3.

Proof of compliance.

8. Any Company incorporated under this Act may, in their corporate name, purchase, hold and convey any real or personal estate, or moveable or immoveable property necessary to enable the Company to carry on the operations mentioned in such statement or declaration, but no such Company shall mortgage the same or give any lien thereon. 13, 14 V. c. 28, s. 2.

May hold lands, &c.

TRUSTEES OF COMPANIES.

- Trustees.** **9.** The Stock, property and concerns of every Company incorporated under this Act, shall be managed by not less than three nor more than nine Trustees, who shall respectively be Stockholders in the Company. 13, 14 V. c. 28, s. 4.
- A majority to be residents and to be elected yearly.** **10.** A majority of the Trustees, including the President, shall be actual residents in the Province, but stockholders otherwise qualified shall not be ineligible to be chosen by reason of not being subjects of Her Majesty by birth or naturalization, and except in the first year, the Trustees shall be annually elected by the Stockholders at such time and place as directed by the By-Laws of the Company. 20 V. c. 14, s. 1, 13, 14 V. c. 28, s. 4.
- Notice of election.** **11.** Notice of the time and place of holding such election, shall be published not less than ten days previous thereto, in the Newspaper printed nearest to the place where the operations of the Company are carried on. 13, 14 V. c. 28, s. 4.
- Who to elect.** **12.** The election shall be made by such of the Stockholders as attend for that purpose either in person or by proxy. 13, 14 V. c. 28, s. 4.
- By ballot.** **13.** The election shall be by Ballot, and each Stockholder shall be entitled to as many votes as he owns shares of Stock in the Company. 13, 14 V. c. 28, s. 5.
- Majority of votes.** **14.** The persons receiving the greatest number of votes shall be Trustees. 13, 14 V. c. 28, s. 5.
- Vacancies how filled.** **15.** When any vacancy amongst the Trustees occurs, it shall be filled for the remainder of the year in the manner provided by the By-Laws of the Company. 13, 14 V. c. 28, s. 5.
- If election not held on the regular day.** **16.** If the election be not made on the day when according to the By-Laws of the Company it ought to be made, the Company shall not for that reason be dissolved, but the Stockholders may hold the election on any other day in the manner provided for by such By-Laws, and all acts of Trustees, until their successors are elected, shall be valid and binding upon the Company. 13, 14 V. c. 28, s. 6.
- re Translation* **The president.** **17.** The Trustees shall elect from among themselves, a Chairman or President, and the Company shall also have such subordinate officers as the By-Laws thereof require. 13, 14 V. c. 28, s. 7.
- Officers.** **18.** The subordinate officers shall be appointed by the Trustees and required to give such security for the faithful performance

performance of the duties of their respective offices, as may be provided by the By-Laws of the Company. 13, 14 V. c. 28, s. 7.

BY-LAWS.

19. The Trustees of any Company incorporated under this Act, may make such By-Laws as they deem proper : 14 V. c. 28, s. 9,—19, V. c. 12, s. 6. Trustees may make By-laws.

1. For the management and disposition of the Stock business and affairs of the Company ; 13, 14 V. c. 28, s. 9.

2. For the appointment of Officers and prescribing their duties, and the duties of all artificers and Servants who may be employed by, and for carrying on all kinds of business within the objects and purposes of the Company ;

3. For appointing the number of Trustees of the Company who are not to exceed nine, nor be less than three ; 19 V. c. 12, s. 6, No. 1.

4. For the payment of Trustees with the consent of a majority of the Stockholders at the annual meeting, or for the appointment of one or more paid Directors ; 19 V. c. 12, s. 2, No. 2.

5. For the amending, altering, or repealing any By-Law of the Company. 19 V. c. 12, s. 6, No. 3.

20. A copy of any By-Laws of the Company purporting to be under the hand of the Clerk, Secretary or other Officer thereof, and having the Corporate Seal of the Company affixed to it, shall be received as *prima facie* evidence of such By-Laws in all Courts of Law or Equity in this Province. 13, 14 V. c. 28, s. 9. Copies to be evidence.

CALLS.

21. The Trustees of any such Company may call in and demand from the Stockholders thereof respectively, all sums of money by them subscribed, at such times and in such payments or instalments as may be provided in accordance with the thirty-second section of this Act and subject to the provisions of the said section, payment shall be made by the Stockholders respectively within sixty days after a personal demand, or after notice requiring such payment has been published for six successive weeks in the newspaper nearest the place where the business of the Company is carried on as aforesaid, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon. 13, 14 V. c. 28, s. 8. Trustees may call in Stock subscribed by instalments.

22. All such Companies shall have power to enforce the payment of calls on the Capital Stock subscribed, by action in any of the Courts of Law ; and in any such action it shall be competent Power to enforce payment of calls.

Handwritten notes: 20/ 6/ 20/ 20/

competent for any of the Stockholders of any such Company to be examined as a witness on behalf of the plaintiff. 19 V. c. 12, s. 9. 20

TRUSTEES TO KEEP STOCK BOOKS.

- Trustees to keep Stock books.** **23.** The Trustees of every Company shall cause a book to be kept by the Treasurer or Clerk thereof, containing, in alphabetical order, the names of all persons who are or have been Stockholders of the Company, and shewing :
- Contents of.**
1. Their places of residence ;
 2. The number of shares of stock held by them respectively ;
 3. The time when they respectively became the owners of the shares ; and
 4. A statement of all the existing debts and liabilities of the Company, and of the amount of its stock actually paid in. 13, 14 V. c. 28, s. 20.
- Open to inspection.** **24.** Such books shall, during the usual business hours of the day, on every day, except Sundays and obligatory holidays (*fetes d'obligations*), be open for the inspection of Stockholders and Creditors of the Company, and their personal Representatives, at the office or principal place of business of the Company,—in the district or County where the operations of the Company are carried on. 13, 14 V. c. 28, s. 20.
- Extracts may be taken and by whom.** **25.** Every Stockholder, Creditor or Representative may make extracts from such book ; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it is transferred liable for the debts of the Company, until an entry thereof has been made as required by the twenty-third section of this Act, and shewing to and from whom such stock has been transferred. 13, 14 V. c. 28, s. 20.
- To be *primâ facie* evidence.** **26.** Such book shall be *primâ facie* evidence of the facts therein stated in favor of the Plaintiff in any suit or proceeding against the Company or against any one or more Stockholders. 13, 14 V. c. 28, s. 21.
- Penalty for not making entries, &c.** **27.** Every Officer or Agent of any Company who refuses or neglects to make a proper entry in such book, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, shall be guilty of a misdemeanor, and being convicted thereof shall be punished, accordingly. 13, 14 V. c. 28, s. 21.
- Neglect to cause forfeiture.** **28.** Every Company that neglects to keep such book open for inspection as aforesaid, shall forfeit the corporate rights, character and privileges acquired in pursuance of this Act. 13, 14 V. c. 28, s. 21. 30

29. The stock of every Company shall be deemed personal estate, and shall be assignable and transferable in such manner as shall be prescribed by the By-laws of the Company. 13, 14 V. c. 28, s. 10, Stock to be personal property.

30. No shares shall be transferable until all previous calls thereon have been fully paid in, or until the shares have been declared forfeited for the non-payment of calls thereon. 13, 14 V. c. 28, s. 10. Shares not transferable when calls in arrear.

31. No Company shall use any of its funds in the purchase of stock in any other Corporation. 13, 14 V. c. 28, s. 10. Company not to take Stock in other Companies.

LIABILITY OF STOCKHOLDERS.

32. The Capital Stock of any Company shall be paid within a period not exceeding five years from the incorporation of the Company, by such annual instalments and in such proportions as are mentioned in the statement or declaration in writing required to be filed in the office of the Provincial Secretary. 16 V. c. 172, s. 1. Capital to be paid up in 5 years.

33. Any shareholder in a Company may, at any time within a period of five years from the incorporation of the Company, pay up his full shares in the Company, and a certificate to that effect shall be made and registered as prescribed in the next section of this Act, after which such Shareholder shall not be charged with the payment of any debt or demand due by the Company beyond the amount of his share or shares in the capital stock of the Company so paid as aforesaid. 13, 14 V. c. 28, s. 11, and 16 V. c. 172, s. 2. May be paid up at any time within 5 years.

34. The Stockholders of any Company incorporated or continued under this Act, shall be jointly and severally liable for all debts and contracts made by the Company, until the whole amount of the Capital Stock of the Company, fixed and limited in manner aforesaid, has been paid in, and a certificate to that effect has been made and registered as prescribed in the next section of this Act, after which no Stockholder of such Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the Company, beyond the amount of his share or shares in the capital stock of the Company so fixed and limited and paid in as aforesaid, save and except as hereinafter mentioned. 13, 14 V. c. 28, s. 11. Liability of Stockholders before and after payment of capital.

35. Within thirty days after the payment of the last instalment in the capital stock of any such Company, there shall be made and drawn up a certificate to that effect, which certificate shall be signed and sworn to by a majority of the Trustees of the Company, including the Chairman or President, and shall be When paid up certificate to be sworn to and registered.

be registered within the said thirty days in the Registry Office of the district or County wherein the business of the Company is carried on; and the Registrar of such district or County, or his Deputy, shall administer such oath, and enter and register the said certificate in the book to be kept by him for the purposes of this Act as hereinbefore mentioned. 13, 14 V. c. 28, s. 18.

Stockholders liable for debts due to employees.

36. The Stockholders in any Company shall be jointly and severally individually liable for all debts due and owing to any of the laborers, servants and apprentices thereof for services performed for such Company; but no Stockholder in any such Company shall be personally liable in the foregoing or in any other of the cases in which personal liability is imposed by this Act, for the payment of any debt contracted by any such Company which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt be brought against the Company within one year after the debt became due; and no suit shall be brought against any Stockholder in any such Company for any debt so contracted unless the same be commenced within two years from the time he ceased to be a Stockholder in such Company, nor until an execution against the Company has been returned unsatisfied in whole or in part. 13, 14 V. c. 28, s. 17,—22 V. c. 90, s. 2.

Stockholders, in a certain Company, not liable beyond the amount of their shares, except in certain cases only.

37. Notwithstanding any thing in this Act contained, the Stockholders of any ~~such~~ Fishery Company, whether they have paid in the amount of their respective shares of stock therein, or not, shall not be liable for any debts or contracts made by such Company beyond the amount of their respective shares of stock therein, unless it be by reason of any infraction of the rules laid down by the fifty-seventh section of this Act, or for any debt falling within the class of debts protected by the thirty-sixth section of this Act, or as being officers or Trustees of such Company. 22 V. c. 90, ss. 2, 3.

But liable for amount subscribed until paid up, notwithstanding transfer of shares.

38. But every such Stockholder shall be and remain liable for all debts and contracts of the Company to the full amount of his share or shares of stock therein, until the same has been fully paid in, notwithstanding any transfer which he may make thereof to any other party. 22 V. c. 90, s. 3.

PROVISIONS FOR INCREASING THE CAPITAL STOCK.

Increase of Stock.

39. Whenever a majority of the Trustees of a Company, by their votes, resolve and declare that the Capital Stock of such Company is insufficient for the purposes thereof, they may call a General Meeting of the Stockholders of the Company, giving at least thirty days' notice of such Meeting, by a written notice signed by the Secretary, and addressed to each of the Shareholders or their representatives, and transmitted through the Post Office, and by advertisement thereof in a public newspaper

of
incorporated
under this Act }

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newspaper published nearest to the place where the Company's affairs are transacted, and continued to be so published until the day of Meeting. 19 V. c. 12, s. 1.

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40. At such Meeting, a majority of the Stockholders holding a majority of the shares in the Company may, by their votes given thereat, in person or by proxy, pass a resolution authorizing the Trustees of the Company to increase the Capital Stock thereof to such amount as they deem necessary for the purposes of the Company, the amount whereof shall be expressed in such resolution, and thereupon the said Trustees may pass a By-Law for the purpose of increasing the Capital Stock, to the amount mentioned in the resolution of the General Meeting of Stockholders as aforesaid, and for declaring the number of shares into which such Capital Stock shall be divided, and the time, amount and manner of payment of the same. 19 V. c. 12, s. 1.

What majority to decide.

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41. Upon the passing of such By-Law, all persons who desire to become holders of any share or shares of such new Stock, may make and sign a declaration, in which shall be set forth:

Supplementary declaration.

1. The amount of such new Stock ;
2. The total amount of the Company's Capital Stock, including the new Stock ;
3. The number of shares of such new Stock ;
4. The total number of old and new shares of Stock ; and
5. Which declaration shall also contain a column, wherein shall be set in figures opposite to the signature of each subscriber, the number of shares for which he subscribes. 19 V. c. 12, s. 2.

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42. Such declaration shall be signed in duplicate, and acknowledged before the District or County Registrar or his Deputy, and shall be certified and filed in the office of the Provincial Secretary and of the District or the County Registry Office, in the manner mentioned in the third Section of this Act, and the declaration shall be proved in evidence, in the manner mentioned in the sixth Section of this Act. 19 V. c. 12, s. 2.

To be signed in duplicate.

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43. The declaration shall not be so filed or certified until at least one half of the new Stock has been subscribed. 19 V. c. 12, s. 3.

When half the new Stock taken.

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44. When the declaration has been so filed, the name of every Stockholder contained therein shall forthwith be entered in the

Names of new Shareholders to be entered.

the books of the Company as that of a Stockholder, with the date of subscription, and number of shares subscribed for; and so long as any of the said Stock remains unsubscribed for, any person desirous of becoming a Stockholder may subscribe his name to the declaration filed in the Registry Office, for one or more of such unsubscribed shares, and the name of each subscriber shall forthwith be entered in the books of the Company in manner aforesaid. 19 V. c. 12, s. 4.

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Rights of new Stockholders.

45. Upon the performance of the several Acts mentioned in the next preceding Section, every such Stockholder whose name has been subscribed to the declaration, shall immediately thereupon become a member of the Corporation, and from thenceforth shall have and enjoy the same rights and privileges, and be subject to the same conditions, restrictions and liabilities to which the original Stockholders are thenceforth entitled or liable; and such new shares of Stock shall from thenceforth be subject to all the provisions of this Act, relative to such Companies, in the same manner as if they had formed a part of the Stock originally subscribed. 19 V. c. 12 s. 5.

Certificates to be verified.

46. All certificates of the payment of Stock in any such Company, shall be signed by and verified by the affidavit or affirmation of the President or Vice-President, or in their absence, of one of the Trustees of the Company, and thereupon the same shall be registered by the District or County Registrar, without any further signature, or the affidavit of any other person. 19 V. c. 12. s. 7.

REPORTS OF COMPANIES.

Yearly reports.

47. Every Company incorporated under this Act shall, annually, within twenty days, from the first day of January, make a Report which shall be inserted in some newspaper published nearest to the place where the business of the Company is carried on, stating the amount of Capital Stock of the Company, and the proportion thereof then actually paid in, together with the amount of the existing debts of the Company. 13, 14 V. c. 28, s. 13.

To be signed by president.

48. Such report shall be signed by the Chairman or President, and a majority of the Trustees, and shall be verified by the oath of the Chairman or President, or of the Secretary of the Company, and shall be entered and registered in the Registry Office of the District or County where the business of the Company is carried on. 13, 14 V. c. 28, s. 13.

INDIVIDUAL LIABILITY OF ~~DIRECTORS~~ AND OTHER OFFICERS.

Trustees
Liability of Directors in default.

49. The Trustees of any Company failing to comply with the requirements of the two last preceding Sections, shall be jointly and severally individually liable for all the debts of the

the Company then existing, and for all contracted until such report be made. 13, 14 V. c. 28, s. 13.

50. If the Trustees of any Company declare and pay any Dividend when the Company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its Capital Stock, they shall be jointly and severally liable for all the debts of the Company then existing, and for all thereafter contracted during their continuance in office respectively: but if any Trustee objects to the declaring or payment of such dividend, and at any time before the time fixed for the payment thereof, files a written statement of such objection in the office of the Secretary of the Company, and also in the Registry Office of the District or County, such Director shall be exempt from such liability. 13, 14 V. c. 28, s. 14.

When Directors individually liable.

51. No loan of money shall be made by any Company to any Stockholder therein; and if any such loan be made to a Stockholder, the Officers who make or assent thereto shall be jointly and severally liable to the extent of such loan, with legal interest thereon, for all the debts of the Company thereafter contracted until the re-payment of the sum loaned. 13, 14 V. c. 28, s. 15.

Loans not to be made to Stockholders.

52. If any certificate or report made, or public notice given by the Officers of any Company, in pursuance of this Act, be false in any material representation, all the Officers who signed the same shall be jointly and severally liable for all the debts of the Company contracted while they are Officers or Stockholders thereof respectively. 13, 14 V. c. 28, s. 16.

Consequences of false certificates or reports.

53. If the indebtedness of the Company at any time exceeds the amount of its capital stock, the Trustees assenting thereto shall be personally and individually liable to the Creditors of the Company for such excess. 13, 14 V. c. 28, s. 16.

When Directors liable to creditors.

54. No person holding stock in any Company as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be personally subject to any liability as a Stockholder of such Company, but the estates and funds in the hands of such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be liable in like manner and to the same extent as the Testator or Intestate, or the Minor, Ward, or interdicted person, or the person interested in such trust fund would be if he were living and competent to act and held the same stock in his own name; and no person holding such stock as collateral security shall be personally subject to any liability as Stockholder of such Company, but the person pledging such stock shall be considered as holding the same, and shall be liable as Stockholder accordingly. 13, 14 V. c. 28, s. 18.

Exemption of executors, &c.

Guardians, &c., may vote. **55.** Every such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall represent the shares of stock in his hands at all meetings of the Company, and may vote accordingly as a Stockholder; and every person who pledges his stock as aforesaid, may nevertheless represent the same at all such meetings, and may vote accordingly as a Stockholder. 13, 14 V. c. 28, s. 19.

Not to be Directors. **56.** No person holding stock as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be a Director or hold any office in the service of the Company; and all votes given to them or either of them shall be void. 13, 14 V. c. 28, s. 19.

What sign Companies shall exhibit. **57.** Every Company shall, in some conspicuous part of every building or place whereat the business or any part of the business thereof is carried on, cause to be constantly inscribed, in plain and distinct letters and figures of at least one half inch in length and of proportionate breadth, as well the name and style of the Company as the amount of the capital stock thereof; and such name, style and capital shall also be written or printed in letters, at least as large and distinct as any other used in the same document, at the head of every promissory note, draft, check, order, bond, contract, agreement, bill of parcels or other document, purporting to be made or signed by any Trustee or Officer of the Company, or in any way to bind or oblige the said Company; and the Trustees shall be personally and jointly and severally liable for every contract, promise or engagement made in the name of the Company at any time when such name, style and amount of capital stock has not been so inscribed at any such place, or by virtue of any such document at the head of which the same has not been written or printed in the manner hereby required. 13, 14 V. c. 28, s. 11.

Companies may break up roads, streets, &c. **58.** Any Company, may break up any road or street, for the purpose of laying down therein any pipe or pipes which may in the opinion of the Trustees, be necessary or expedient to enable such Company to conduct their business to greater advantage: Provided,

1. That permission to do so be first had and obtained from the Council of the Municipality having the control of such road or street;
2. That no unnecessary damage be done in the execution of the works; and
3. That care be taken, as far as may be to preserve a free and uninterrupted passage through such road or street while the works are in progress. 19 V. c. 12, s. 8.

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59. The word "Company," wherever it occurs in this Act, shall be construed to mean a Joint Stock Company incorporated by registration under the provisions of this or of a former Act, unless there be some thing in the context inconsistent with such construction. 13, 14 V. c. 28, s. 22. Meaning of the word "Company."

60. This Act may be amended or repealed by any Act to be passed in this or any other Session of the Parliament of this Province; but such amendment or repeal shall not, nor shall the consequent dissolution of any Corporation formed or created under this Act, take away or impair any remedy given against any such Corporation, its Stockholders or officers, for any liability previously incurred. 13, 14 V. c. 28, s. 23. This Act may be amended or repealed, &c.

61. Every Company formed or in course of being formed under any former Act respecting Joint Stock Companies, for any of the purposes aforesaid when this Act takes effect,—shall continue or the formation thereof be completed under and subject to the provisions of this Act, in like manner as if such Companies had been originally formed under this Act.

CAP. LXIV.

An Act respecting Mining Companies.

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

- Owner of mines may make tramways, &c.** 1. The proprietors of any Mine in Canada may construct a gravel or macadamized road or a tramway from their Mines to the nearest navigable waters or railway or highway, and may take any land required for right of way and stations at a fair valuation, under the provisions of the eleventh section of the Railway Act, in that behalf, headed "Lands and their valuation," which shall apply to such proprietors, but the said gravel or macadamized road or tramway shall not exceed twenty miles in length. 20 V. c. 15, s. 1. 5
- When may construct harbours.** 2. The proprietors of any such Mine holding lands in fee simple having a frontage of one mile or upwards on any navigable lake, river or stream, may : 15
1. Construct harbours, wharves, piers and other erections thereon, at the bank of such lake, stream or river, for the accommodation of all kinds of steamers, vessels and craft ; 20 V. c. 15, s. 2.
- Make rules.** 2. Make rules and regulations for the government and management of such wharves and harbours ; 20
- Collect dues.** 3. Impose and levy according to a tariff to be by them adopted for that purpose, and which may be from time to time altered and amended, reasonable wharfage and harbour dues, and fines for the infraction of such rules and regulations. 20 V. c. 15, s. 2. 25
- Being first approved by the Governor in Council.** 3. No such rules, regulations or tariff shall be of any force or effect until sanctioned or approved of by the Governor, and no fine thereby imposed shall exceed ~~five pounds~~ *twenty dollars* for any one offence, and such fines shall be recoverable in a summary way before any two Justices of the Peace, as if imposed by Act of the Legislature. 20 V. c. 15, s. 2. 30
- May improve water-courses.** 4. Any Mining Company, or the proprietors of any Mine, may improve and render navigable for the transport of freight to and from the Mine, any water course or water courses, or may construct a channel of communication between navigable water courses, that may be necessary for the full and proper development thereof for the more advantageous working of the Mine, and the conveyance of freight to and from the same. 20 V. c. 15, s. 3. 40

5. But every Mining Company or the proprietors shall be liable to indemnify all or any person or persons who may suffer injury to property or rights in consequence of their so doing, according to the laws of that part of the province in which the water courses may be respectively. 20 V. c. 15, s. 3. To indemnify owners.

6. For the purposes aforesaid, the Mining Company, or proprietors of any Mine, may enter into and upon the lands of Her Majesty, or of any person or persons, body corporate or otherwise, for the purposes and subject to the conditions aforesaid, and may survey and take levels of the same or any part thereof, found necessary and proper for the construction of tramways or for making channels of water communication or improving the navigation of any water course or water courses, so as to facilitate the working of such Mine or the conveyance of freight to and from the same. 20 V. c. 15, s. 4. May enter upon Crown or private lands.

7. No beach, lot, or land covered with water or other public property, shall be taken under this Act without the consent of the Governor in Council, and then only upon such terms and conditions as he thinks proper. 20 V. c. 15, s. 5. When consent of Governor necessary.

8. No Harbour or River improvement shall be made under this Act, or any property taken therefor, until the proposed plan and extent thereof, and of the works therewith connected, have been submitted to and approved by the Governor in Council; but such plan may afterwards be altered and extended with such consent and approval. 20 V. c. 15, s. 5. Plans to be approved by Governor in Council.

C A P . L X V .

An Act respecting incorporated Joint Stock Companies, for supplying Cities, Towns and Villages with Gas and Water.

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

FORMATION OF COMPANIES.

Joint Stock Gas and Water Companies.

1. Any five or more persons who desire to form a Company for supplying any City, Town or incorporated Village with Gas or Water, or with both Gas and Water, may make and sign a statement or declaration in writing, in which shall be set forth : 16 V. c. 173, s. 1.

Declaration and contents of

- 1. The corporate name of the Company ; 10
- 2. The object for which the same is formed ;

3. The amount of capital stock of the Company which shall be divided into shares of ~~five pounds~~ each, and such stock in the case of a Gas and Water Company in a City, shall not exceed ~~seventy five thousand pounds~~, if Gas or Water only is to be supplied, and ~~one hundred and fifty thousand pounds~~, if both Gas and Water are to be supplied, and in the case of a Town or Village, shall not exceed ~~fifty thousand pounds~~ if Gas or Water only is to be supplied, and ~~one hundred thousand pounds~~ if both Gas and Water are to be supplied, and the money so raised shall be appropriated to the purpose of constructing, completing, acquiring and maintaining their said Gas Works or Water Works, or Gas and Water Works, and to no other object or purpose whatever. 16 V. c. 173, ss. 1, 3, — 18 V. c. 94, s. 1.

4. The number of shares of which the stock is to consist ; 25

5. The Number and names of the Directors who are to manage the concerns of the Company for the first year ; 16, V. c. 173, s. 1.—18 V. c. 94, s. 7.

6. The name of the City, Town or Village in which the operations of the Company are intended to be carried on ; and 30

7. The term of the Company's proposed existence which shall not exceed fifty years. 16 V. c. 173, s. 1.

To be acknowledged in duplicate before Registrar.

2. The persons making the statement or declaration shall acknowledge the same in duplicate before the Mayor or Chief Magistrate of the City, Town or Village, and he shall receive and grant a certificate thereof. 16. c 173. s 1. 35

\$ 20
 \$ 300,000.
 \$ 600,000
 \$ 200,000
 \$ 400,000.

3. If upon the petition of the persons desiring to form the Company, the Municipal Council of the City, Town or Village in which the operations of the Company are to be carried on, do within thirty days from the date of such acknowledgment, make a By-Law granting authority to such persons as a Company to lay down pipes for the conveyance of Water or Gas, or both, under the Streets, Squares and other public places of such City, Town or Village, the Registrar of the District or County in which the same is situate, on the production of one of the Duplicates of such statement or declaration, with a proper certificate of the acknowledgment thereof endorsed thereon, and a duly certified copy of such By-Law attached thereto, shall file the same and make an entry thereof in a Book to be kept by him for that purpose, and the other of the Duplicates, with a proper certificate endorsed thereon of the acknowledgment thereof, and of the filing and registration thereof, and of such By-Law, and with a certified copy of the By-Law thereto annexed shall forthwith be transmitted to and filed in the office of the Provincial Secretary. 16 V. c. 173, s. 1.

How Gas and Water Companies are to proceed.

4. When the formalities required by the foregoing Sections of this Act have been complied with, the persons who have signed the statement or declaration, and all persons who thereafter become Stockholders of the Company thereby established, shall be a Body Corporate, by the style and title mentioned in such statement or declaration. 16 V. c. 173, s. 2.

When to become incorporated.

5. Compliance with the formalities prescribed in the foregoing sections of this Act for the formation of any Company, shall be conclusively established by the insertion in the *Canada Gazette* of a notice to that effect by the Provincial Secretary. 16 V. c. 173, s. 4.

Proof of compliance, &c.

6. A copy of the whole of the registered statement or declaration registered in pursuance of this Act, and certified by the District or County Registrar or his Deputy, to be a true copy, shall be received in all Courts and places as *prima facie* evidence of the facts therein stated. 16 V. c. 173, s. 4.

Certified copies to be evidence.

7. Any Company incorporated under this Act may, in their corporate name, purchase and hold, sell and convey lands, tenements and hereditaments for them and their assigns and successors for the use of the said Gas Works or Water Works, or Gas and Water Works, and such real estate holden by any such Company shall be held for the purposes for which the Company is incorporated in constructing their necessary Works and for no other purpose, and shall not at any time exceed in value ~~seven thousand five hundred pounds.~~ 16 V. c. 173, s. 2.

May hold lands, &c.

\$ 30,000

BY-LAWS.

May make
By-laws.

8. A majority of the Stockholders of any such Company present at any Special General Meeting may make such By-laws as they deem proper for the following purposes: 16 V. c. 173, s. 12,—18 V. c. 94, s. 5.

1. For the management and disposition of the Stock, business and affairs of the Company; 16 V. c. 173, s. 12.

2. For the appointment of officers and prescribing their duties, and those of all artificers and servants that may be employed, and for carrying on all kinds of business within the objects and purposes of the Company; 16 V. c. 173, s. 12.

3. For appointing the number of Directors of the Company, not to exceed nine, nor be less than three, including the Head of any Municipality holding Stock in the Company to the amount of ~~two thousand five hundred pounds~~, or upwards, as prescribed by the two hundred and sixtieth section of the Act respecting Municipal Institutions in Upper Canada; and for determining the number of shares it shall be necessary for a Stockholder to hold to qualify him to act as a Director; 18 V. c. 94, s. 5, No. 1,—16 V. c. 173, ss. 5, 12.

4. For the payment of Directors with the consent of a majority of the Stockholders at the annual meeting, or for the appointment of one or more paid Directors; 18 V. c. 94, s. 5, No. 2.

5. For the amending, altering or repealing any By-law of the Company made under the authority of this or of any other Act of Parliament; 18 V. c. 94, s. 5, No. 3.

Copies to be
evidence.

9. A copy of any By-laws of the Company purporting to be under the hand of the Clerk, Secretary or other Officer thereof, and having the Corporate Seal of the Company affixed to it, shall be received as *prima facie* evidence of such By-laws in all Courts of Law or Equity in this Province. 16 V. c. 173, s. 12.

10. The Stock, property and concerns of every Company incorporated under this Act, or any former Act for a like purpose, shall be managed by not less than three nor more than nine Directors, as provided in the By-laws, and such Directors shall respectively be Stockholders in the Company, and a majority of the number of such Directors shall constitute a quorum for the transaction of business. 16 V. c. 173, s. 5,—18 V. c. 94, s. 5, No. 1.

Directors to
be elected by
Stockholders.

11. The Directors, except for the first year, shall be annually elected by the Stockholders at a time and place which shall be directed by the By-laws of the Company. 16 V. c. 173, s. 5.

\$ 10,000

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12. Notice of the time and place of holding such election, shall be published not less than ten days previous thereto, in a Newspaper printed in the City, Town or Village where the operations of the Company are carried on. 16 V. c. 173, s. 5. Notice of election.
- 5 13. The election shall be made by such of the Stockholders as attend for that purpose either in person or by proxy. 16 V. c. 173, s. 5. Who to elect.
14. All elections shall be by Ballot, and each Stockholder shall be entitled to as many votes as he owns shares of Stock in the Company. 16 V. c. 173, s. 6. By ballot.
15. The persons receiving the greatest number of votes shall be Directors. 16 V. c. 173, s. 6. Majority of votes.
16. When any vacancy happens amongst the Directors by death, resignation or otherwise, it shall be filled for the remainder of the year in the manner as provided by the By-Laws of the Company. 16 V. c. 173, s. 6. Vacancies how filled.
17. If the election of Directors be not made on the day when according to the By-Laws of the Company it ought to be made, the Company shall not for that reason be dissolved, but the Stockholders may hold the election on any other day in the manner provided for by such By-Laws, and all acts of Directors until their successors be elected, shall be valid and binding as against the Company. 16 V. c. 173, s. 7. If election not held on regular day.
18. The Directors shall elect from among themselves, a Chairman or President, and the Company shall also have such subordinate officers as the By-Laws thereof require. 16 V. c. 173, s. 8. The President
19. The subordinate officers shall be appointed, by the Directors and be required to give such security for the faithful performance of the duties of their respective offices, as may be provided by the By-Laws of the Company. 16 V. c. 173, s. 8. Officers.
20. The President or any three Directors of any such Company, may call a special General Meeting of the Stockholders for any purpose, giving at least ten days' notice by advertisement in one or more Newspapers, published in the City, Town or Village where the business of the Company is carried on, or by a Circular mailed to the address of each Stockholder, at least ten days previous to the time appointed for holding the meeting. 18 V. c. 94, s. 4. President or Directors may call meetings.

REPORTS.

- 40 21. Every Company incorporated under this Act shall, annually, within twenty days, from the first day of January, make a Yearly report.

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a Report which shall be inserted in some newspaper published in the City, Town or Village, where the business of the Company is carried on, stating the amount of Capital Stock of the Company, and the proportion thereof then actually paid in, together with the amount of the existing debts of the Company. 5

By whom to be signed. 22. Such report shall be signed by the Chairman or President, and a majority of the Directors, and shall be verified by the oath of the Chairman or President, or of the Secretary of the Company, and shall be entered and registered in the Registry Office of the District or County, where the business of the Company is carried on. 10

Liability of Directors in default. 23. The Directors of any Company failing to comply with the requirements of the two last preceding Sections, shall be jointly and severally liable for all the debts of the Company then existing, and for all contracted until such report be made. 15
16 V. c. 173, s. 14.

INDIVIDUAL LIABILITY OF DIRECTORS AND OTHER OFFICERS.

When Directors individually liable, &c. 24. If the Directors of any Company declare and pay any Dividend when the Company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its Capital Stock, they shall be jointly and severally liable for all the debts of the Company then existing, and for all thereafter contracted during their continuance in office respectively: but if any Director objects to the declaring or payment of such dividend, and at any time before the time fixed for the payment thereof, files a written statement of such objection in the office of the Secretary of the Company, and also in the Registry Office of the District or County, such Director shall be exempt from such liability. 25
16 V. c. 173, s. 15.

Loans not to be made to Stockholders. 25. No loan of money shall be made by any Company to any Stockholder therein; and if any such loan be made to a Stockholder, the Officers who make or assent thereto shall be jointly and severally liable to the extent of such loan, with legal interest thereon, for all the debts of the Company thereafter contracted until the re-payment of the sum loaned. 30
V. c. 173, s. 16.

Consequences of false certificates or reports. 26. If any certificate or report made, or public notice given by the Officers of any Company, in pursuance of this Act, be false in any material representation, all the Officers who signed the same shall be jointly and severally liable for all the debts of the Company contracted while they are Officers or Stockholders thereof respectively. 35
16 V. c. 173, s. 17.

When Directors liable to creditors. 27. If the indebtedness of the Company at any time exceeds the amount of its capital stock, the Directors assenting thereto shall 40

shall be personally and individually liable to the Creditors of the Company for such excess. 16 V. c. 173, s. 17.

28. No person holding stock in any Company as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be personally subject to any liability as Stockholder of such Company, but the estates and funds in the hands of such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be liable in like manner and to the same extent as the Testator or Intestate, or the Minor, Ward, or interdicted person, or the person interested in such trust fund would be if he were living and competent to act and held the same stock in his own name: and no person holding such stock as collateral security shall be personally subject to any liability as Stockholder of such Company, but the person pledging such stock shall be considered as holding the same, and shall be liable as Stockholder accordingly. 16 V. c. 173, s. 18.

Exemption of executors, &c.

29. Every such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall represent the shares of stock in his hands at all meetings of the Company, and may vote accordingly as a Stockholder; and every person who pledges his stock as aforesaid, may nevertheless represent the same at all such meetings, and may vote accordingly as a Stockholder.

Guardian, &c., may vote.

30. No person holding stock as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be a Director or hold any office in the service of such Company; and all votes given to them or either of them shall be void. 16 V. c. 173, s. 19.

Not to be a Director.

DIRECTORS TO KEEP STOCK BOOKS.

31. The Directors of every Company shall cause a book to be kept by the Treasurer or Clerk thereof, containing, in alphabetical order, the names of all persons who are or have been Stockholders of the Company, and shewing:

Stock books to be kept.

1. Their places of residence;
2. The number of shares of stock held by them respectively;
3. The time when they respectively became the owners of the shares; and
4. A statement of all the existing debts and liabilities of the Company, and of the amount of its stock actually paid in. 16 V. c. 173, s. 20.

32. Such books shall, during the usual business hours of the day, on every day, except Sundays and Holidays, be open for the inspection of Stockholders and Creditors of the Company, and

Open to inspection.

and their personal Representatives, at the office or principal place of business of the Company where the operations of the Company are carried on. 16 V. c. 173, s. 20.

Extracts may be taken and by whom.

33. Every Stockholder, Creditor or Representative may make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it is transferred liable for the debts of the Company, until an entry thereof has been made as required by the thirty-first section of this Act, and shewing to and from whom such stock has been transferred. 16 V. c. 173, s. 20. 5

To be evidence.

34. Such book shall be *prima facie* evidence of the facts therein stated in favor of the Plaintiff in any suit or proceeding against the Company or against any one or more Stockholders. 16 V. c. 173, s. 21. 10

Penalty for not making entries, &c.

35. Every Officer or Agent of any Company who refuses or neglects to make any proper entry in such book, or to exhibit the same, or allow the same to be inspected and extracts to be taken therefrom, shall be liable to a fine of ~~ten pounds~~, or more or less, at the discretion of the Directors. 16 V. c. 173, s. 21. 15

Neglect to cause forfeiture.

36. Every Company that neglects to keep such book open for inspection as aforesaid, shall forfeit the corporate rights, character and privileges acquired by it in pursuance of this Act. 16 V. c. 173, s. 21. 20

Stock to be personal property.

37. The stock of every Company shall be deemed personal property notwithstanding the conversion of the funds into Real Estate, and shall go to the personal representatives of the Shareholders, and shall be assignable and transferable in such manner as shall be prescribed by the By-laws of the Company. 16 V. c. 173, part of s. 23. 25

Shares not transferable when calls in arrear.

38. No shares shall be transferable until all previous calls thereon, and all debts due to the Company by the Shareholder wishing to transfer his share, for gas, water rent, fixtures, or otherwise have been fully paid, or until the shares have been declared forfeited for the non-payment of calls thereon. 16 V. c. 173, ss. 13, 23. 30

Transfer to be entered.

39. No transfer of shares shall be valid unless entered and registered in a book or books to be kept for that purpose in the manner provided by the By-laws of the Company. 16 V. c. 173, s. 23. 35

Company not to take stock in other Companies.

40. No Company shall use any of its funds in the purchase of stock in any other Corporation. 16 V. c. 173, s. 13. 40

FOR INCREASING THE CAPITAL STOCK.

41. Whenever a majority of the Directors of any Company are of opinion that the capital stock thereof is insufficient for the purposes for which the Company has been incorporated, they may call a general meeting of the Stockholders of the Company, (giving at least ten days' notice of the time and place of meeting either by advertisement in one or more newspapers published in the City, Town or Village where the operations of the Company are carried on, or by a circular addressed to each Stockholder and mailed at least ten days previous to the time appointed for holding such meeting) and a majority of the Stockholders who attend and are present at such meeting may pass a By-law for increasing the capital stock of the Company to such amount as they deem necessary for carrying out the purposes of the Company but not in the whole exceeding the amounts respectively hereinbefore mentioned, and for authorizing the raising of such additional capital by increasing the number of shares of ~~five pounds~~ each into which the capital of the Company, is or may be divided, and for enabling the Directors to receive subscriptions for the whole or for any part of such additional capital from any person or body corporate, or otherwise, under such regulations as may be made by the Directors in that behalf. 18 V. c. 94, s. 1.

Increase of Stock.

What majority to decide.

\$ 20.

42. The name of every Subscriber for any new or additional Stock so authorized to be subscribed for in any such Company, shall be forthwith entered as that of a Stockholder in the register of Stockholders of the Company, with the date of Subscription and number of Shares subscribed for; and thereupon such Stockholder shall become liable to the Directors of every such Company for the payment of the full amount subscribed in such instalments and at such times as the said Directors may be authorized to call the same in, and such Stockholder shall be subject to all the conditions, restrictions and liabilities, and entitled to all the rights, privileges, benefits and advantages to which the original Stockholders shall thenceforth be subject or entitled. 18 V. c. 94, s. 2.

Subscribers' names to be entered on register of Stockholders.

Liability of new Shareholder.

43. Every Shareholder shall be held liable to the Directors of the Company for the payment of the full amount subscribed, and the Directors may call in and demand from the Stockholders thereof, respectively, all sums of money by them subscribed, at such times and in such payments or instalments as such Directors deem proper, provided that no one instalment shall exceed ten per cent., and that not less than one month shall intervene between the calls for any two instalments (save and except in the case of any original stock of any Company formed before the thirtieth day of May, in the year of our Lord one thousand eight hundred and fifty-five, in which latter case not less than three months shall intervene between such calls.) 16 V. c. 173, s. 9,—18 V. c. 94, s. 3.

Shareholders to be liable for full amount subscribed.

44.

If calls not paid, shares liable to forfeiture.

44. If payment be not made by the Stockholders respectively within sixty days after a personal demand, or after notice requiring such payment has been published for six successive weeks in a newspaper published in the City, Town or Village where the business of the Company is carried on, the Directors may declare forfeited the shares upon which the said instalments have not been paid; which forfeiture shall be a discharge to the holders of the shares so forfeited from all further liability either to the Company or to any third party in respect of the shares so forfeited, but the holders of shares so forfeited shall lose whatever sum or sums they have paid on or for such shares, and no more. 16 V. c. 173, s. 9,--18 V. c. 94, s. 3.

Or Directors may sue.

45. The Directors may sue any Stockholder for the amount of the call or calls on his stock due and not paid, instead of forfeiting the same. 16 V. c. 173, s. 10.

Interest to be paid on calls in arrear.

46 If at the time appointed for the payment of any call, any Stockholder fails to pay the amount of the call payable by him, he shall be liable to pay interest at the rate of six ~~pounds~~ per centum per annum for the same from the day appointed for payment thereof to the time of the actual payment, and may be sued by the Directors for such call and interest in any Court of Law or Equity having competent jurisdiction. 16 V. c. 173, s. 10.

How to declare for calls.

47. In a suit or action to recover any money due upon any share, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, whereby an action hath accrued to the Company by virtue of this Act. 16 V. c. 173, s. 11.

Requisite proof.

48. At the trial of such action it shall be sufficient to prove the facts so declared, and the evidence of one witness in respect of all facts required to be proved, shall be *prima facie* sufficient without the production of any documentary proof whatever.

Companies may sell Gas and water fittings.

49. Every Company may sell and dispose of Gas Meters, and Gas and Water Fittings of every description for the use of private and public houses, or for any establishment, company or corporation whatsoever, as well as coke, coal-tar, and all and every the products of their works, refuse or residuum arising or to be obtained from the materials used in or necessary for the manufacture of Gas; and every Company may let out to hire Gas Meters, and Gas and Water Fittings of every kind and description at such rate and rents as may be agreed upon between the consumers or tenants and such Company. 16 V. c. 173, s. 22.

50. Any of the Municipalities in which the works of any such Company are erected or placed may subscribe to or take stock in the Company, or may loan any sum of money, on mortgage or otherwise, to the Company, or contribute in any manner towards advancing the object for which the Company has been incorporated. 16 V. c. 173, s. 24.

Municipalities
may take
stock.

51. The Head for the time being of any Municipality holding stock in any such Company to the extent of one tenth part or more of the whole of the capital stock thereof, shall be *ex officio* a Director of the Company so long as such Municipality continues to hold stock to the extent aforesaid. 16 V. c. 173, s. 24.

When Mayor
to be a Direc-
tor.

52. Aliens may hold stock in any such Company, and enjoy all the privileges in the Company which they would have if they were subjects of Her Majesty. 16 V. c. 173, s. 25.

Aliens may
hold Stock.

53. Any such Company may break up, dig and trench so much and so many of the streets, squares, highways, lanes and public places of the Municipalities for supplying which with Gas or Water, or both, they have been incorporated as are necessary for laying the mains and pipes to conduct the Gas or Water, or both, from the works of the Company to the consumers thereof, doing no unnecessary damage in the premises, and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places, while the works are in progress. 16 V. c. 173, s. 26.

Companies
may excavate
streets, &c.

54. When any such Company has laid down main pipes for the supply of Gas or Water in or through any of the streets, squares or public places of any City, Town or Village, no other person or persons, bodies politic or corporate, shall without the consent of such Company first had and obtained, nor otherwise than upon payment to such Company of such compensation as may be agreed upon, lay down any main pipe for the supply of Gas or Water within six feet of such Company's main pipes, or if it be impracticable to cut drains for such other main pipes at a greater distance, then as nearly six feet as the circumstances of the case will admit. 18 V. c. 94, s. 6.

Other pipes
not to encroach
on main pipes
laid down.

55. Where there are buildings within the Municipality the different parts whereof belong to different proprietors, or are in possession of different tenants or lessees, the Company may carry pipes to any part of any building so situate, passing over the property of one or more proprietors or in the possession of one or more tenants to convey the Water or Gas, or both, to the property of another or in the possession of another, and such pipes shall be carried up and attached to the outside of the building. 16 V. c. 173, s. 27.

Companies
may pass
through build-
ings to intro-
duce pipes.

May also break up, &c., all passages.

56. The Company may also break up and uplift all passages common to neighbouring proprietors or tenants, and dig or cut trenches therein for the purpose of laying down pipes or taking up or repairing the same, doing as little damage as may be in the execution of the powers granted by this Act. *Ibid.* 5

Company to make satisfaction to owners for damage done.

57. Every Company shall make satisfaction to the owners or proprietors of buildings or other property, or to the public, for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify every such Company and their servants, and those by them employed, for what they or any of them do in pursuance of the powers hereby granted. 16 V. c. 173, s. 27. 10

Public safety not to be endangered.

58. Every such Company shall construct and locate their Gas Works and Water Works, and all apparatus and appurtenances thereunto belonging or appertaining, or therewith connected, and wheresoever situated, so as not to endanger the public health or safety. 16 V. c. 173, s. 28. 15

Penalty for illegal interference by others.

\$ 120.
4,

59. If any person lays or causes to be laid any pipe or main, to communicate with any pipe or main belonging to any such Company, or in any way obtains or uses its Gas or Water without the consent of the Company, he shall forfeit and pay to the Company the sum of ~~thirty pounds~~ and also a further sum of ~~one pound~~ for each day during which such communication remains, which sums, together with costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province having jurisdiction to the amount claimed. 16 V. c. 173, s. 29. 25

Penalties for injurious acts.

60 If any person---

1. wilfully or maliciously breaks up, pulls down, or damages, injures, puts out of order or destroys, any main pipe, engine, water-house pipe, plug or other works, or apparatus, appurtenances or dependencies thereof, or any matter or thing made and provided for the purpose aforesaid, or any of the materials used and provided for the same, or ordered to be erected, laid down or belonging to any such Company; or 30

2. In any wise wilfully does any other injury or damage, for the purpose of obstructing, hindering, or embarrassing the construction, completion, maintaining or repairing of the said works, or causes or procures the same to be done, or 40

3. Bathes, or washes, or cleans any cloth, wool, leather, skin, animals, or any nauseous or offensive thing, or casts, throws or puts any filth, dirt or any nauseous thing, or causes, permits or suffers the water of any sink, sewer or drain, to run or be conveyed into, or causes any other annoyance to be done to 45

to the water within any reservoir, cistern, pond, source or fountain from which the water belonging to the Company is to be supplied or conveyed; or

4. Increases the supply of Gas or Water, agreed for with the Company, by increasing the number or size of the holes in the Gas Burners, or using the Gas without Burners, or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly burning the same, or by wrongfully or improperly wasting the Water or Gas.

10. Such person shall, on conviction thereof before a Justice of the Peace or any other person authorized to act in that capacity in the locality wherein the offence has been committed, be compelled to pay for the use of the Company a penalty not exceeding ~~five pounds~~, together with costs of prosecution, or be confined in the Common Gaol of such County for a space of time not exceeding three months, as to such Justice seems meet. 16 V. c. 173, s. 30.

Penalty on conviction.

\$ 20.

61. Nothing in this Act contained shall prevent any person from constructing any works for the supply of Gas or Water to his own premises. 16 V. c. 173, s. 31.

Private rights as to Gas and Water.

62. Neither the service nor connecting pipes of such Company, nor any meters, lusters, lamps, pipes, Gas fittings or any other property of any kind whatsoever of the Company, shall notwithstanding the actual or apparent possession thereof by such person, be subject to or liable for rent, nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be, nor be in any way whatsoever liable to any person for the debt of any person to and for whose use or the use of whose house or building the same may be supplied by such Company. 16 V. c. 173, s. 32.

Fittings not liable to rent of tenants.

63. If any person wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, service pipe, or fittings belonging to any such Company, or wilfully impairs or knowingly suffers the same to be altered or impaired so that the meter or meters indicate less Gas than actually passes through the same, such person shall incur a penalty to the use of the Company, for every such offence, of a sum not less than ~~One Pound~~ nor exceeding ~~Five Pounds~~, and shall also pay all charges necessary for the repairing and replacing the said meter pipes or fittings, and double the value of the surplus gas so consumed; such damages, penalties and charges to be recovered with costs as hereinafter provided. 16 V. c. 173, s. 33.

Penalty for wilful damage of meters, lamps, &c.

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64. If any person wilfully extinguishes any of the public lamps or lights, or wilfully removes, destroys, damages, fraudulently alters or in any way injures any pipe, pedestal, post, plug, lamp

Penalty for injuring public gas light works.

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\$ 20. 4.

lamp or other apparatus or thing belonging to the Company, he shall forfeit and pay to the use of the Company a penalty not less than ~~One Pound~~ nor more than ~~Five Pounds~~, and shall also be liable to make good all damages and charges, to be recovered with costs as hereinafter provided. 16. V. c. 173, s. 34 4 5

Remedy for price of gas or water furnished.

65. If any person supplied by the Company, with Gas or Water, or both, neglects to pay the rent, rate or charge due to the Company at any of the times fixed for the payment thereof, the Company, or any person acting under their authority, on giving forty-eight hours previous notice, may stop the supply of Gas or Water, or both, from entering the premises of the person in arrear as aforesaid, by cutting off the service pipe or pipes, or by such other means as the Company or its officers see fit, and may recover the rent or charge due up to such time, together with the expenses of cutting off the Gas or Water ~~on both~~, as the case may be, in any competent Court, notwithstanding any contract to furnish for a longer time. 10 15

Removal of gas or water fittings.

66. In all cases where the Company may lawfully cut off and take away the supply of Gas or Water, or both, from any house, building or premises, the Company, their agents and workmen, upon giving forty-eight hours previous notice to the person in charge or the occupier, may enter into the house, building or premises between the hours of nine o'clock in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and may remove and take away any pipe, meter, cock, branch, lamp, fittings or apparatus, the property of and belonging to the Company, and any servant of the Company duly authorized may between the hours aforesaid, enter any house into which Gas or Water or both have been taken, for the purpose of repairing and making good any such house, building or premises, or for the purpose of examining or any meter, pipe or apparatus belonging to the Company or used for their Gas or Water or both, and if any person refuses to permit or does not permit the servants and officers of the Company to enter and perform the acts aforesaid, the person so refusing or obstructing shall incur a penalty to the Company for every such offence of ~~Ten Pounds~~, and a further penalty of ~~One Pound~~ for every day during which such refusal or obstruction continues, to be recovered with costs as hereinafter provided. 16 V. c. 173, s. 35. 25 30 35 40

Companies may borrow moneys.

67. Any Company may either in this Province or out of it, borrow money at such rate of interest as the President and Directors of the Company deem necessary.

Limit thereto.

68. The sum so borrowed shall not exceed the sum of Ten Thousand Pounds currency, to be expended in Gas Works, and the like sum for Water Works for any Town or incorporated Village, or the sum of Twenty-five Thousand Pounds for any City for either Gas or Water Works. 45

69.

\$ 40. 4.

\$ 40,000.
100,000.

69. For securing the repayment of money so borrowed with interest thereon, the Company or the President thereof, by and with the consent of a majority of the Directors, may mortgage, secure, and assign the real estate, works, rates, revenues, and future calls on Shareholders, of the Company.

May mortgage works.

70. All Bonds, Debentures or other securities granted for the purpose aforesaid may be made payable to bearer or transferable by endorsement or otherwise, as the Directors see fit; but no such Bond or Debenture shall be made or granted for a less sum than Fifty Pounds. 16 V. c. 173, s. 36.

Bonds, &c., may be payable to bearer.

\$ 200.

71. The Bonds, Debentures, future calls or other securities so granted and pledged as securities for money borrowed, shall be equitably and proportionably liquidated or paid out of the funds or receipts of the Company, without preference to any of such securities over each other.

No preference allowed.

72. No such Bonds or Debentures or other securities so pledged, shall prevent the Directors of the Company from receiving and applying such future calls to the purposes of the Company, so long as the money due on all such Bonds and Debentures does not exceed the amount of all the calls still remaining unpaid. 16 V. c. 173, s. 37.

Protection of Bondholders, &c.

73. The Directors of any such Company, by a resolution entered upon the books of such Company, and without the formality of passing a By-law, may from time to time as they see fit authorize the President or Manager of the Company to sign such particular bonds, mortgages, contracts or instruments as it may, in the opinion of the Directors, be necessary or expedient so to sign, and to affix the common seal of the Company thereto.

Power of Directors in executing bonds, &c.

74. The President or the Manager of the Company, to be from time to time authorized as aforesaid, may draw, sign or accept such promissory notes or bills of exchange for the purposes of the Company, without seal, as in the opinion of the Directors it may be necessary or expedient so to sign or accept.

And promissory notes.

75. All such bonds, contracts, mortgages and instruments so signed and sealed by the person authorized as aforesaid, and also such notes and bills so signed, drawn or accepted by the person authorized as aforesaid, shall be valid and binding on the Company, and be held to be the act and deed of the Company; But such Bonds, Bills or Debentures and securities as aforesaid, shall not exceed the amount which the said Companies are by this Act empowered to borrow. 16 V. c. 173, s. 38.

Securities duly executed to be valid.

76. All fines, penalties and forfeitures imposed by this Act may be sued for and recovered with costs by any such Company

How fines may be enforced.

Company or by any person whose property may be injured, to and for the use of such Company or person either in the manner hereinbefore directed, or before a Justice or Justices of the Peace or any other person authorized to act in that capacity, where the offence has been committed, on the oath of any one credible witness.

In what Courts actions may be brought.

77. All actions for damages or penalties or both given by this Act, shall be brought in Courts having jurisdiction to the amount involved in such suit, unless otherwise specially provided and authorized by this Act.....

Proceedings when damages and penalties separate.

78. Where damages as well as a penalty may be given, such damages and penalty may be sued for separately, and such fines, penalties and damages may be levied by distress from the goods of the defendant, and in case the defendant has no goods to satisfy the same, he shall be committed to the Com- mon Gaol for such period not exceeding two months, as the Justice or Court direct. 16 V. c. 173, s. 39.

Witnesses—Shareholders competent.

79. In any action brought by or on behalf of the Com- pany, in any Court, or in any proceeding before a Justice of the Peace or any other person authorized to act in that capacity, on the behalf of any such Company, the President and any Shareholder shall be competent witnesses, notwithstanding their interest in such suit or otherwise. 16 V. c. 173, s. 40.

When arbi- trations may be had.

80. If it be found necessary or deemed proper to con- duct any of the pipes or to carry any of the works of the Com- pany through the lands of any person, lying within ten miles of the City, Town or Village for supplying which the Com- pany is incorporated, and the consent of such person cannot be obtained for that purpose, the Company may nominate and appoint one indifferent person, and the owner or owners of the land taken or damaged may nominate and appoint another indifferent person, which two persons so appointed shall no- minate and appoint a third person, and the said three persons shall act as Arbitrators in such matter of dispute between the Company and the owner or owners of the property.

Powers and duties of arbi- trators.

81. The said Arbitrators shall examine all witnesses and administer all necessary oaths or declarations to them, and the said Arbitrators, or a majority of them, shall award, determine and adjudge what sum or sums of money respectively shall be paid to the owner or owners of the property so taken or da- maged by the Company.

When sums awarded to be paid.

82. The sum or sums of money so awarded shall be paid within three months after the date of the award, and in default of such payment, the proprietor may resume the possession of his property, with all the rights appertaining thereto.

82. In the event of either the Company or the owner of such property failing to appoint an Arbitrator, after eight days' notice from one of the said parties to the other, or of the said two Arbitrators failing to appoint a third, the Judge of the Circuit Court of the Circuit or of the County Court of the County within which the said property lies, may appoint a third Arbitrator, and the decision of the said three Arbitrators, or a majority of them, shall be binding on all parties concerned. 16 V. c. 173, s. 41. How arbitrators appointed in case of neglect.
83. Nothing contained in this Act shall authorize any such Company, or any person acting under the authority of the same, to take, use or injure for the purposes of the Company, any house or other building, or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house, or nursery ground for trees, or to convey from the premises of any person any water already appropriated and necessary for his domestic uses, without the consent, in writing, of the owner or owners thereof first had and obtained. 16 V. c. 173, s. 42. Restrictions in the powers of Companies.
84. The word "Company," wherever it occurs in this Act, shall be construed to mean a Joint Stock Company incorporated by registration under the provisions of this Act or some former Act respecting Gas and Water Incorporated Joint Stock Companies. 12 V. c. 173, s. 43, No. 7. Interpretation of words.
85. Nothing in this Act shall authorize any Company established under it to interfere with or infringe upon any exclusive privilege granted to any other Company. 16 V. c. 173, s. 44. Rights of other Companies protected.
86. In all proceedings which may have been had or taken under the Act passed in the Sixth year of Her Majesty's Reign, to provide for the formation of Incorporated Joint Stock Companies for supplying Cities, Towns and Villages with Gas and Water, or in or about any Company incorporated thereunder, the word "Trustees," wherever the same shall occur, or shall have occurred, shall be taken to be and be construed to mean the Directors. 18 V. c. 94, s. 7. "Trustees," to mean Directors.
87. Every Company formed or in course of being formed under any former Act respecting Joint Stock Companies for the purposes mentioned in this Act, when this Act takes effect, shall continue, or the formation thereof be completed under and subject to the provisions of this Act, in like manner as if such Companies had originally been formed under this Act. Companies formed or in course of being formed continued.

This Act may
be amended
without pre-
judice.

89. This Act may be amended or repealed by any Act to be passed in this or any other Session of the Parliament of this Province ; but such amendment or repeal shall not, nor shall the consequent dissolution of any Corporation formed or created under this Act, take away or impair any remedy given against any such Corporation, its Stockholders or Officers, for any liability which had been previously incurred. 16 V. c. 173, s. 45. 5

C A P . L X V I .

An Act respecting Railways.

30. 14 August
27 August

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

1. APPLICATION OF ACT.

1. Whenever this Act is referred to in citing the same, it shall be sufficient to use the expression, "The Railway Act." 14, 15 V. c. 51, s. 2. Name by which it shall be cited.

2. When not otherwise expressed, this and the following sections to the one hundred and twenty-fifth shall apply to every Railway authorized to be constructed, by any Act passed since ~~the thirty-first July~~ one thousand eight hundred and fifty-one, or by any Act passed after this Act takes effect, and this Act shall be incorporated with every such Act ; and all the clauses and provisions of this Act, unless they are expressly varied or excepted by any such Act, shall apply to the undertaking authorized there- by, so far as applicable to the undertaking, and shall as well as the clauses and provisions of every other Act incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act. 14, 15 V. c. 51, s. 1. Application of Act.

3. For the purpose of incorporating this Act or any of its provisions with a Special Act, it shall be sufficient in such Act to enact, that the Clauses of this Act, with respect to the matter so proposed to be incorporated, referring to the same in the word or words at the head of and introductory to the enactment with respect to such matter, shall be incorporated with such Act, and thereupon all the Clauses and provisions of this Act, with respect to the matter so incorporated shall, save in so far as they are expressly varied or excepted by such Act, form part thereof, and such Act shall be construed as if the substance of such Clauses and provisions were set forth therein with reference to the matter to which such Act relates. 14, 15, V. c. 51, s. 3. What shall be sufficient in making an incorporation of this Act with Special Acts.

4. The power given by the Special Act to construct the Railway, and to take and use lands for that purpose, shall be exercised subject to the provisions and restrictions contained in this Act. Power to construct Railway, &c., to be exercised subject to provisions of this Act.

5. For the value of lands taken and for all damages to lands injuriously affected by the construction of the Railway in the exercise, of the powers by this or the Special Act, or any Act incorporated therewith, vested in the Company, compensation shall be made to the owners and occupiers of, and to all other persons interested in, any lands so taken or injuriously affected. 14, 15 V. c. 51, s. 4. Compensation to be made for lands damaged.

6.

How compensation to be determined. **6.** Unless otherwise specially provided by this Act or the Special Act, the amount of such compensation shall be ascertained and determined in the manner provided by this Act, 14, 15 V. c. 51, s. 4.

2. INTERPRETATION.

- Interpretation of words. **7.** 1. The expression "the Special Act," used in this Act, shall be construed to mean any Act authorizing the construction of a Railway, and with which this Act is in manner aforesaid incorporated; 14, 15 V. c. 51. s. 7. 5
- "Prescribed." 2. The word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same is prescribed or provided for in the Special Act; and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used; 14, 15 V. c. 51, s. 7. 10
- "The Lands." 3. The expression "the lands" shall mean the lands which by the Special Act are authorized to be taken or used for the purpose thereof; 15
- "The undertaking." 4. The expression "the undertaking" shall mean the Railway and works, of whatever description, by the Special Act authorized to be executed; 20
5. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction, that is to say: 14, 15 V. c. 51, s. 7. 25
- "Lands." 6. The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure;
- "Lease." 7. The word "Lease" shall include any agreement for a lease;
- "Toll." 8. The word "Toll" shall include any rate or charge or other payment payable under this Act or the Special Act for any passenger, animal, carriage, goods, merchandize, articles, matters or things conveyed on the Railway;
- "Goods." 9. The word "Goods" shall include things of every kind conveyed upon the Railway, or upon Steam or other vessels connected therewith; 35
- "Superior Courts." 10. The expression "Superior Courts" shall mean the Courts of Chancery, Queen's Bench and Common Pleas in Upper Canada, and the Superior Court in Lower Canada, as the case may be; 40
- 11.

11. The word " County " shall include any union of Counties, County, Riding, or like division of a County in the Province, or any division thereof into separate Municipalities in Lower Canada ;
12. The word " Highways " shall mean all public roads, streets, lanes, and other public ways and communications ;
13. The word " Sheriff " shall include Under Sheriff, or other legal competent Deputy ; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression " the Sheriff," or the expression " Clerk of the Peace," shall in such case be construed to mean the Sheriff or Clerk of the Peace of the District, County, Riding, Division, or place where such lands are situate ; and if the lands in question, being the property of one and the same party, situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County, Riding, Division or place where any part of such lands are situate ;
14. The word " Justice " shall mean Justice of the Peace acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of a Justice arises, and who is not interested in the matter ; and where the matter arises in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding Division, City or place, the word " Justice " shall mean a Justice acting for the District, County, Riding, Division, City or place where any part of such lands are situate, and who is not interested in such matter ; and where any matter is authorized or required to be done by two Justices, the expression " two Justices " shall be understood to mean two Justices assembled and acting together ;
15. The word " owner " where, under the provisions of this Act or the Special Act, any notice is required to be given to the owner of any lands, or where any act is authorized or required to be done with the consent of any such owner, shall be understood to mean any Corporation or person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company ;
16. The expression " the Company " shall mean the company or party authorized by the Special Act to construct the Railway ;
17. The expression " the Railway " shall mean the Railway and works by the Special Act authorized to be constructed ;

" Clause." 18. The word " clause" shall mean any separate section of this Act, or any other Act therein referred to, distinguished by a separate number ;

" Shareholder." 19. The word, " Shareholder " shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the Shareholder ;

Interpretation Act to apply. 20. The Interpretation Act shall, in so far as the provisions thereof apply, be deemed to form part hereof in the particulars not herein provided. 14, 15 V. c. 51, s. 7.

3. INCORPORATION.

Companies established under Special Acts, declared to be bodies corporate, &c. 8. Every Company established under any Special Act shall be a body corporate under the name declared in the Special Act, and shall be invested with all the powers, privileges and immunities necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such Corporation, as are expressed or included in the Interpretation Act of this Province. 14, 15 V. c. 51, s. 8.

4. POWERS.

Powers: 9. The Company shall have power and authority :

To receive grants of land, &c. *Firstly.* To receive, hold and take all voluntary grants and donations of land or other property made to it, to aid in the construction, maintenance and accommodation of the Railway, but the same shall be held and used for the purpose of such grants or donations only ; 14, 15 V. c. 51, s. 9.

Purchase land; *Secondly.* To purchase, hold and take of any Corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the Railway, and also to alienate, sell or dispose of the same ;

Occupy public lands, beaches, &c. *Thirdly.* No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council ; but with such consent any such Company may take and appropriate for the use of their Railway and works, but not alienate, so much of the wild lands of the Crown lying on the route of the Railway, as have not been granted or sold, and as may be necessary for such Railway, as also so much of the public beach or of the land covered with the waters of any Lake, River, Stream or Canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works, but nothing in this sub-section contained, shall apply to the thirty and thirty-first paragraphs of the eleventh section of this Act. 14, 15 V. c. 51, s. 9, No. 3, 16 V. c. 169, s. 8.

Fourthly.

Translator

Translator

Fourthly. To make, carry or place the Railway across or upon the lands of any Corporation or person on the line of the Railway, or within the distance from such line stated in the Special Act, although through error or other cause, the name of such party has not been entered in the Book of Reference hereinafter mentioned, or although some other party has been erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ;

Carry Rail-
way across
lands of Cor-
poration, &c ;

Fifthly. To construct, maintain and work the Railway across, along, or upon any stream of water, water course, canal, highway or railway which it intersects or touches ; but the stream, water course, highway, canal or railway so intersected or touched, shall be restored by the Company to its former state, or to such state as not to impair its usefulness ;

And across or
along streams,
&c ;

Sixthly. To make, complete, alter and keep in repair the railway with one or more sets of rails or tracks to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them.

Complete
Railway with
one or more
tracks, &c ;

Seventhly. To erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, and from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery and contrivances necessary for the accommodation and use of the passengers, freights and business of the Railway ;

Erect neces-
sary build-
ings, wharves,
&c ;

Eighthly. To make branch Railways, if required and provided by the Special Act, and to manage the same, and for that purpose to exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Railway ;

Branch Rail-
ways ;

Ninthly. To construct, erect and make all other matters and things necessary and convenient for the making, extending and using of the Railway, in pursuance of and according to the meaning and intent of this Act, and of the Special Act ;

All other
matters and
things neces-
sary for Rail-
way ;

Tenthly. To take, transport, carry and convey persons and goods on the Railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation ;

Convey per-
sons and goods
on Railway ;

Eleventhly. To borrow from time to time, either in this Province or elsewhere, such sums of money as may be expedient for completing, maintaining and working the Railway, and at a rate of interest not exceeding eight per cent. per annum, and to make the Bonds, Debentures or other securities granted for the

Borrow mo-
ney, &c ;

101 #

*sent to this place
Mr*

the sums so borrowed, payable either in currency or in sterling, and at such place or places within this Province or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient, or be necessary, and to hypothecate, mortgage or pledge the lands, tolls, revenues and other property of the Company for the due payment of the said sums and the interest thereon, but no such debenture shall be for a less sum than ~~twenty five pounds~~ ⁵;

\$ 100.

Enter upon Her Majesty's lands, &c; *t/* **Twelfthly.** To enter into and upon any lands of Her Majesty without previous license therefor, or into and upon the lands of any Corporation or person whatsoever lying in the intended route or line of the Railway;

Make surveys of lands; **Thirteenthly.** To make surveys, examinations, or other necessary arrangements on such lands necessary for fixing the site of the Railway, and to set out and ascertain such parts of the lands as are necessary and proper for the Railway;

Remove trees; **Fourteenthly.** To fell or remove any trees standing in any woods, lands or forests, where the Railway passes, to the distance of six rods from either side thereof;

Unite with other Railways. **Fifteenthly.** To cross, intersect, join and unite the Railway with any other Railway at any point on its route, and upon the lands of such other Railway, with the necessary conveniences for the purposes of such connection; and the owners of both Railways may unite in forming such intersection, and grant the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by Arbitrators to be appointed by a Judge of one of the Superior Courts in Lower Canada or Upper Canada, as the case may be; 14, 15 V. c. 51, s. 9, No. 15, *See* 22 V. c. 4. s. 2. ²⁰ ²⁵ ³⁰

5. PLANS AND SURVEYS.

Provision respecting surveys and levels. **10.** Plans and Surveys shall be made and corrected as follows: 14, 15 V. c. 51, s. 10.

Firstly. Surveys and levels shall be taken and made of the lands through which the Railway is to pass, together with a Map or Plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a Book of Reference for the Railway, in which shall be set forth— ³⁵ ⁴⁰

1. A general description of the said lands;
2. The names of the owners and occupiers thereof, so far as they can be ascertained; and ⁴⁰
- 3.

3. Every thing necessary for the right understanding of such Map or Plan.

Secondly. The Map or Plan and Book of Reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit copies thereof in the office of the Clerks of the Peace in the districts or Counties through which the Railway passes, and also in the Office of the Provincial Secretary, and shall also deliver one copy thereof to the said Company ;

Thirdly. Any person may resort to such copies, and make extracts or copies thereof, as occasion requires, paying to the Provincial Secretary, or to the Clerks of the Peace, at the rate of ~~six pence~~ ^{ten cents} for every hundred words ;

Fourthly. The triplicates of such Map or Plan and Book of Reference so certified, or a true copy thereof certified by the Provincial Secretary, or by the Clerks of the Peace, shall be good evidence in any Court of Law and elsewhere ;

Fifthly. Any omission, mistatement or erroneous description of such lands, or of the owners or occupiers thereof, in any Map or Plan or Book of Reference, may, after giving ten days' notice to the owners of such lands, be corrected by two Justices on application made to them for that purpose and if it appears to them that such omission, mistatement or erroneous description arose from mistake, the Justices shall certify the same accordingly ;

Omissions
how remedied;

Sixthly. The Certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the Clerks of the Peace of the Districts or Counties respectively in which such lands are situate, and be kept by them along with the other documents to which they relate ; and thereupon, such Map or plan or Book of Reference shall be deemed to be corrected according to such Certificate ; and the Company may make the Railway in accordance with the Certificate ;

Seventhly. If any alterations from the original Plan or Survey are intended to be made in the line or course of the Railway, a Plan and Section in triplicate of such alterations as have been approved of by Parliament, on the same scale and containing the same particulars as the original Plan and Survey, shall be deposited in the same manner as the original Plan, and copies or extracts of such Plan and Section so far as relate to the several Districts or Counties, in or through which such alterations have been authorized to be made, shall be deposited with the Clerks of such Districts and Counties ;

Alterations
from original
survey.

Eighthly.

Railway not to be proceeded with until map, &c, deposited.

Eighthly. Until such original Map or Plan and Book of Reference, or the plans and sections of the alterations, have been so deposited, the execution of the Railway, or of the part thereof affected by the alterations, *as the case may be*, shall not be proceeded with ; 5

Clerks of the Peace to receive copies of original plan, &c.

Ninthly. The Clerks of the Peace shall receive and retain the copies of the original Plans and Surveys, and copies of the Plans and Sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of ~~one pound~~ four dollars currency ; 10

Copies certified to Clerk to be good evidence in Courts.

Tenthly. The copies of the Maps, Plans and ~~Books of Reference~~ or extracts thereof, or of any alteration or correction thereof, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof, and the Clerk of the Peace shall give such certificate to all parties interested when required ; 15

Line not to deviate more than a mile.

Eleventhly. No deviation of more than one mile from the line of the Railway or from the places assigned thereto in the said Map or Plan and Book of Reference or Plans or Sections, shall be made into, through, across, under or over any part of the lands not shewn in such Map or Plan and Book of Reference, or Plans or Sections, or within one mile of the said line and place, save in such instances as are provided for in the Special Act ; 20

Error in the name of a person entered in a Book of Reference.

Twelfthly. The Railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the Book of Reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ; 25

Extent of lands to be taken without consent of proprietor.

Thirteenthly. The lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty yards in breadth, except in places where the Railway is raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets are established, or where stations, depots or fixtures are intended to be erected, or goods to be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the person authorized to convey such lands ; and the places at which such extra breadth is to be taken shall be shewn on the Map or plan, or Plans or Sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra breadth from being taken, provided it be taken upon the line shewn or within the distance aforesaid from such line ; 35 40 45

Fourteenthly.

Fourteenthly. The extent of the public beach, or of the land covered with the waters of any river or lake in this Province, taken for the Railway, shall not exceed the quantity limited in the next preceding clause; 14, 15 V. c. 51, s. 10. Extent of public beach to be taken.

6. LANDS AND THEIR VALUATION.

11. The conveyance of lands, their valuation and the compensation therefor, shall be made in manner following: 14 15, v. c. 51, s. 11.

Firstly. All Corporations and persons whatever, tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, seized, possessed of or interested in any lands, may contract for, sell and convey unto the Company all or any part thereof; and any contract, agreement, sale, conveyance and assurance so made, shall be valid and effectual in law to all intents and purposes whatsoever; and the Corporation or person, so conveying, is hereby indemnified for what he or it respectively does by virtue of or in pursuance of this Act; Corporation, &c., may convey lands.

Secondly. Any contract or agreement made by any party authorized by this Act to convey lands, and made before the deposit of the Map or Plan and Book of reference, and before the setting out and ascertaining of the lands required for the Railway, shall be binding at the price agreed upon for the same lands, if they are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the mean time, have become the property of a third party; and possession of the land may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter provided, and the agreement shall be in the place of an award; Effect of contracts made before deposit of map.

Thirdly. All Corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the Railway and the tolls thereon shall be liable and chargeable in preference Corporations who cannot sell, may agree upon a fixed rent.

preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the Registry Office of the proper county ;

As to proprietor *par indivis*.

Fourthly. Whenever there is more than one party proprietor of any land as joint tenant or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one third or more of such land, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint tenants or tenants in common and *par indivis* ; and the proprietor or proprietors who have so agreed, may deliver possession of such land, or empower the entry upon the same, as the case may be ;

After one month's notice of deposit of map, &c., application to the owner of lands.

Fifthly. After one month from the deposit of the Map or Plan and Book of Reference, and from notice thereof in at least one newspaper, if there be any, published in each of the Districts and Counties through which the Railway is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Railway, and thereupon, agreements and contracts may be made with such parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which arise between them, shall be settled as follows, that is to say :

Deposit to be general—notice.

Sixthly. The deposit of a Map or Plan and Book of Reference, and the notice of such deposit, shall be deemed a general notice to all such parties as aforesaid of the lands which will be required for the said Railway and works ;

Notice to opposite party.

Seventhly. The notice served upon the party shall contain :

1. A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them ;
2. A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages ; and
3. The name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted : and such notice shall be accompanied by the certificate of a sworn surveyor for Upper Canada or Lower Canada, as the case may be, disinterested in the matter, and not being the Arbitrator named in the notice :

1. That the land, if the notice relate to the taking of land, shown on the said map or plan, is required for the Railway, or is within the limits of deviation hereby allowed;

2. That he knows the land, or the amount of damage likely to arise from the exercise of the powers; and

3. That the sum so offered, is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

8. *Eighthly.* If the opposite party is absent from the District or County in which the lands lie, or is unknown, then, upon application to a Judge of the Circuit Court, or of the County Court, at the case may be, accompanied by such Certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that, after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without a Certificate, to be inserted three times in the course of one month in some newspaper published in the said District or County;

If the party be absent or unknown.

9. *Ninthly.* If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party does not notify to the Company his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a Sworn Surveyor for Upper or Lower Canada, as the case may be, to be sole Arbitrator for determining the compensation to be paid as aforesaid;

Party not accepting the Company's offer, and not appointing an arbitrator.

10. *Tenthly.* If the opposite party within the time aforesaid, notifies to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge shall, on the application of the party or of the Company (previous notice of at least one clear day having been given to the other party), appoint a third Arbitrator;

Appointment of arbitrators by opposite party.

Third arbitrator.

11. *Eleventhly.* The Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the District or County in which the lands lie, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation in such way as they or a majority of them, deem best, and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive: But no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other Arbitrator has had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, had been adjourned;

Duties of arbitrators.

adjourned ; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the Arbitrator appointed by him, or whose appointment he required ;

Costs how
paid.

Twelfthly. If in any case where three Arbitrators have been appointed, the sum awarded is not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and be deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge aforesaid ;

Arbitrators
may examine
on oath.

Thirteenthly. The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as voluntarily appear before him or them, and may administer such oath or affirmation ; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly ;

Time within
which award
must be made.

Fourteenthly. The Judge by whom any third Arbitrator or sole Arbitrator is appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same is not made on or before such day, or some other day to which the time for making it has been prolonged, either by the consent of the parties or by the order of the Judge (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or of one of the Arbitrators after one clear day's notice to the others), then, the sum offered by the Company as aforesaid, shall be the compensation to be paid by them ;

Arbitrator dy-
ing, &c.

Fifteenthly. If the Arbitrator appointed by such Judge, or if any Arbitrator appointed by the parties, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, then, in the case of the Arbitrator appointed by the Judge upon the application of either party, such Judge being satisfied by affidavit or otherwise of such death disqualification, refusal or failure, may, appoint another Arbitrator in his place, and the Company and party respectively may each appoint an Arbitrator in the place of his Arbitrator deceased or otherwise not acting as aforesaid, but no recommendation or repetition of prior proceedings shall be required in any case ;

Company may
desist paying
costs.

Sixteenthly. Any such notice for lands, as aforesaid, may be desisted from, and new notice given, with regard to the same or other lands, to the same or any other party, but in any such case, the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment, shall subsist ;

Seventeenthly.

Seventeenthly. The Surveyor or other person offered or appointed as Valuator or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the Judge after his appointment, but the objection must be made before the appointment, and its validity or invalidity shall be summarily determined by the Judge;

Arbitrators not disqualified for certain circumstances

Eighteenthly. No cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by the Judge, on the application of either party, after one clear day's notice to the other, and if such cause is determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held not to have appointed an Arbitrator;

Nineteenthly. No award made as aforesaid shall be invalidated from any want of form or other technical objection, if the requirements of this Act have been complied with, and if the award state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid, be named in the award;

Awards not avoided for want of form.

Twentiethly. Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon; and if any resistance or forcible opposition be made by any person to their so doing, the Judge may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District or County, or to a Bailiff, as he may deem most suitable, to put the said Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do;

Possession may be taken on payment tender, &c., of sum awarded.

Twenty-firstly. Such Warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry

carry on some part of the said Railway with which the said Company are ready forthwith to proceed; and upon the said Company giving security to his satisfaction, and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time at which possession is given, and with such costs as may be lawfully payable by the Company;

As to incumbrances, &c., upon lands, &c., purchased or taken in U. C.

Twenty-secondly. The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into claim to the compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party;

Twenty-thirdly. If the Company has reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may, if the lands are situated in Upper Canada, pay such compensation into the office of either of the Superior Courts for Upper Canada, with the interest thereon for six months, and may deliver to the Clerk of the Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the Company to the land therein mentioned;

Twenty-fourthly. A notice, in such form and for such time as the said Court appoints, shall be inserted in some newspaper if there be any, published in the County in which the lands are situate, and in the City of Toronto, which shall state that the title of the Company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or to any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act, and the special Act and to law, appertain;

Twenty-fifthly.

Twenty-fifthly. The costs of the proceedings, or any part thereof, shall be paid by the Company, or by any other party as the Court deem it equitable to order ;

Twenty-sixthly. If such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it is not obtained until after the six months have expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right ;

Twenty-seventhly. If the lands so taken are situate in Lower Canada, and if the Company have reason to fear any such claim, mortgage, hypothec or incumbrance, or if any party to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the compensation or rent cannot be found, or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which the land is situate, with the interest thereon for six months, and may deliver to the said Prothonotary an authentic copy of the conveyance, or of the award, if there be no conveyance, and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is, the conveyance or award) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, to representing or being the husband of any party so entitled, to file their claims to the compensation, or any part thereof, and all such claims shall be received and adjudged upon by the Court ;

Case in which lands are situate in L. C. and Company have reason to fear incumbrances provided for

Twenty-eighthly. Such judgment of confirmation shall for ever bar all claims to the land, or any part thereof (including dower not yet open), as well as any mortgage, hypothec or incumbrance upon the same ; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all parties interested, as to right and justice, and the Special Act, and according to the provisions of this Act and to law, shall appertain ;

Twenty-ninthly. The costs of the said proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court deem it equitable to order ; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Protonotary, the Court shall direct

h/

direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it is not obtained until after the six months have expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right; 5

Case in which Railway shall pass through Indian lands provided for.

Thirtiethly. If the Railway passes through any land belonging to or in possession of any Tribe of Indians in this Province, or if any act occasioning damage to their lands be done under the authority of this Act or the Special Act, compensation shall be made to them therefore, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever it is necessary that Arbitrators should be chosen by the parties, the Chief Officer of the Indian Department within this Province, is hereby authorized and required to name an Arbitrator on behalf of the Indians, and where the lands belong to the Indians, the amount awarded in any case shall be paid, to the said Chief Officer, for the use of such Tribe or Body; 10

As to lands belonging to Her Majesty, &c.

Thirty-firstly. Whenever it is necessary for the Company to occupy any part of the lands belonging to the Queen, reserved for Naval or Military purposes, they shall first apply for and obtain the license or consent of Her Majesty, under the Hand and Seal of the Governor and having obtained such license and consent, they may at any time or times enter into and enjoy any of the said lands for the purposes of the Railway; but in the case of any such Naval or Military Reserves, no such license or consent shall be given except upon a Report first made thereupon by the Naval or Military authorities in which such lands are for the time being vested, approving of such license and consent being so given as aforesaid. 14, 15 V. c. 51, s. 11. 25

7. HIGHWAYS AND BRIDGES.

12. The Highways and Bridges shall be regulated as follows: 14, 15 V. c. 51, s. 12.

Railway not to be carried along any highway without leave from municipal authorities.

Firstly. The Railway shall not be carried along an existing highway, but merely cross the same in the line of the Railway, unless leave has been obtained from the proper Municipal authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the highway, under a penalty of not less than ~~ten pounds~~ for any contravention; but, in either case, the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction; 35

Secondly. 40

\$ 40.

Secondly. No part of the Railway which crosses any highway without being carried over by a bridge, or under by a tunnel, shall rise above or sink below the level of the highway more than one inch; and the Railway may be carried across or above any highway within the limits aforesaid;

Railway not to rise more than one inch above level of highways when crossing the same.

Thirdly. The space of the arch of any bridge erected for carrying the Railway over or across any highway shall at all times be, and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than twelve feet; and the descent under any such bridge shall not exceed one foot in twenty feet;

Height and breadth of bridge over highways.

Fourthly. The ascent of all bridges erected to carry any highway over any Railway shall not be more than one foot in twenty feet increase over the natural ascent of the highway; and a good and sufficient fence shall be made on each side of every bridge, which fence shall not be less than four feet above the surface of the bridge;

Ascent of bridges.

Fifthly. Signboards stretching across the highway crossed at a level by any Railway, shall be erected and kept up at each Crossing at such height as to leave sixteen feet from the highway to the lower edge of the signboard, and having the words "Railway Crossing" painted on each side of the signboard, and in letters not less than six inches in length; and for every neglect to comply with the requirements of this clause, a penalty not exceeding ~~ten pounds currency~~ shall be incurred. 14, 15 V. c. 51, s. 12.

Precautions when Railway crosses a highway.

\$40

8. FENCES.

12. Fences shall be erected and maintained on each side of the Rail-way, of the height and strength of an ordinary division fence, with openings, or gates, or bars therein at farm crossings of the Road, for the use of the proprietors of the lands adjoining the Rail-way; and also cattle guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the Rail-way. 14 & 15 V. c. 51, s. 13.

Fences to be erected on each side of Railway.

14. The said words "openings, gates or bars," shall be held to mean and shall in all cases imply sliding gates commonly called hurdle gates, with proper fastenings: but this shall not be interpreted to the profit of those proprietors and tenants of land crossed by Railways in this Province, who had received compensation from the Railway Companies, for having omitted the erection of such gates before the tenth of June, one thousand eight hundred and forty-seven, nor shall it in any way affect or apply to any Railway constructed or in part constructed, on the tenth of June, one thousand eight hundred and forty-seven, but

Meaning of certain words.

but the same shall apply only to such Railways as may be constructed or commenced after that day. 20 V. c. 35, s. 1.

Liability of Company until cattle guards erected.

15. Until such fences and cattle guards are duly made, the Company shall be liable for all damages which may be done by their trains or engines to cattle, horses or other animals on the Railway. 14, 15 V. c. 51, s. 13.

When to be exempted.

16. After the fences or guards have been duly made, and while they are duly maintained, no such liability shall accrue for any such damages, unless negligently or wilfully done. 14, 15 V. c. 51, s. 13.

Persons prohibited going on the track, &c., with cattle, &c.

17. If any person rides, leads or drives any horse or other animal upon such Rail-way, and within the fences and guards, other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding ~~Ten Pounds~~, and shall also pay to the party aggrieved all damages sustained thereby. 14, 15 V. c. 51, s. 13.

Or walking thereon.

18. No person other than those connected with, or employed by, the Rail-way, shall walk along the track thereof, except where the same is laid across or along a Highway. 14, 15 V. c. 51, s. 13. No. 1.

Dividing and separating of lands for Rail-way from neighbouring lands.

19. Within six months after any lands have been taken for the use of the Railway, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, the Company shall, at their own costs and charges, set and make on the lands so taken, and from time to time, maintain, support and keep in repair, a sufficient post or rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle and thereby divide and separate and keep constantly divided and separated such lands from the lands or grounds adjoining thereto. 14, 15 V. c. 51, s. 13, No. 2.

9. TOLLS.

Tolls to be fixed by By-laws.

20. Tolls shall be from time to time fixed and regulated by the By-laws of the Company, or by the Directors, if thereunto authorized by the By-laws, or by the Shareholders at any general meeting, and may be demanded and received for all passengers and goods transported upon the Railway or in the Steam Vessels to the undertaking belonging, and shall be paid to such persons and at such places near to the Railway, in such manner and under such regulations as the By-laws direct. 14, 15 V. c. 51, s. 14.

21. In case of denial or neglect of payment on demand of any such Tolls, or any part thereof, to such persons, the same may be sued for and recovered in any competent Court, or the Agents or Servants of the Company may seize the goods for

\$ 40

for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof. 14, 15 V. c. 15, s. 14.

5 **22.** If the tolls are not paid within six weeks, the Company may sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable, and all charges and expenses of such detention and sale; rendering the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto. 14, 15 V. c. 51, s. 14 Remedy if tolls not paid

10 **23.** If any goods remain in the possession of the Company unclaimed for the space of twelve months, the Company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Canada Gazette*, and in such other papers as they deem necessary, sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds, if any, shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto. 14, 15 V. c. 51, s. 14. When goods distrained or detained may be sold.

15 **24.** In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Receiver General, to be applied to the general purposes of the Province, until claimed by the party entitled thereto. 14, 15 V. c. 51, s. 14. How balance to be disposed of.

20 **25.** All or any of the tolls may, by any By-law, be reduced and again raised as often as deemed necessary for the interests of the undertaking: Provided that the same tolls shall be payable at the same time and under the same circumstances upon all goods and by all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-laws relating to the tolls. 14, 15 V. c. 51, s. 14. Tolls—how raised—or reduced.

25 **26.** In all cases, a fraction in the distance over which goods or passengers are transported on the Railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton. 14, 15 V. c. 51, s. 14. A fraction of a mile to be considered as whole one in charging tolls.

30 **27.** The Directors shall, from time to time, print and stick up, or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed Table of tolls to be stuck up in cars.

printed board or paper exhibiting all the tolls payable, and particularising the price or sum of money to be charged or taken for the carriage of any matter or thing. 14, 15 V. c. 51, s. 14.

28. No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the *Canada Gazette* of the By-law establishing such tolls, and of the Order in Council approving thereof. 14, 15 V. c. 51, s. 14. See 10, 11 V. c. 63, s. 14.

29. Every By-law fixing and regulating tolls shall be subject to revision by the Governor in Council from time to time, after approval thereof as aforesaid; and after an Order in Council, reducing the tolls fixed and regulated by any By-law, has been twice published in the *Canada Gazette*, the tolls mentioned in such Order in Council shall be substituted for those mentioned in the By-law so long as the Order in Council remains unrevoked. 14, 15 V. c. 51, s. 14.

10. GENERAL MEETINGS.

30. The Shareholders may assemble together at general meetings for purposes connected with or belonging to the undertaking, and at any annual general meeting, and may elect Directors in the manner provided by the next succeeding clause. 14, 15 V. c. 51, s. 15.

11. PRESIDENT AND DIRECTORS---THEIR ELECTION AND DUTIES.

31. A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the Special Act, shall be chosen annually by a majority of the Shareholders voting at such election at a general meeting, the time and place for which shall be appointed by the Special Act, and if such election is not held on the day so appointed, the Directors shall notify and cause such election to be held within thirty days after the day appointed. 14, 15 V. c. 51, s. 16.

32. On the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when it ought to have been held. 14, 15 V. c. 51, s. 16.

33. Vacancies in the Board of Directors shall be filled in the manner prescribed by the By-laws. 14, 15 V. c. 51, s. 16.

34. No person shall be a Director unless he is a Stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he is chosen. 14, 15 V. c. 51, s. 16.

35. The method of calling general meetings, and the time and place of the first meeting of Stockholders for the appointment of Directors, shall be determined and settled in the Special Act. Calling of special meetings, &c.

36. The number of votes to which each Shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion to the number of shares held by him, unless otherwise provided by the Special Act. Votes to be in proportion to shares.

37. All Shareholders, whether resident in this Province or elsewhere, may vote by proxy, if they see fit: Provided that such proxy produce, from his constituent an appointment in writing, in the words or to the effect following, that is to say: Shareholders may vote by proxy.

I, _____, of _____, one of the Shareholders of the _____, do hereby appoint _____, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking, that may be mentioned or proposed at any meeting of the Shareholders of the said Company, or any of them, in such manner as he, the said _____, thinks proper. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, in the year _____.

38. The votes by proxy shall be as valid as if the principals had voted in person; and every matter or thing proposed or considered in any public meeting of the Shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the Company, and be deemed the decisions and acts of the Company. Votes by proxy to be valid.

39. The Directors first appointed, or those appointed in their stead, in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed therefor, at which time an annual general meeting of the Shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business of the Company. Term of office of Directors.

40. In case of the death, absence or resignation of any of the Directors, others may be appointed in their stead by the surviving Directors; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors. *Ibid.*, s. 16. Vacancies how supplied.

41. The Directors shall, at their first or at some other meeting, after the day appointed for the annual general meeting, elect one of their number to be the President of the Company, who shall always, when present, be the Chairman of and preside at all meetings of the Directors, and shall hold his office President.

- office until he ceases to be a Director, or until another President has been elected in his stead; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.
- Vice-President.**
- 42.** The Directors at any meeting at which not less than a quorum, to be settled by the Special Act, are present, shall be competent to use and exercise all and any of the powers vested in the Directors. 5
- Quorum.**
- 43.** No Director shall have more than one vote at any meeting except the Chairman, who shall, in case of a division of equal numbers, have the casting vote. 10
- Casting vote.**
- 44.** The Directors shall be subject to the examination and control of the Shareholders at their annual meetings, and be subject to all By-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act. 15
- Directors to be subject to Shareholders and By-laws.**
- 45.** The act of a majority of a quorum of the Directors present at any meeting regularly held, shall be deemed the act of the Directors. *Ibid.*, s. 16, No. 7. 20
- Acts of majority to bind the whole.**
- 46.** No person holding any office, place or employment in or being concerned or interested in any contracts under or with the Company, shall be capable of being chosen a Director, or of holding the office of Director, "nor shall any person being a Director of the Company enter into, or be directly or indirectly, for his own use and benefit, interested in any contract with the Company, not relating to the purchase of land necessary for the Railway or be or become a partner of any contractor with the Company; and no contracts for works of construction or maintenance of Railways, except works of ordinary repair, or of immediate necessity, shall be entered into until after tenders for such works respectively have been invited by public notice therefor, given for at least four weeks in some newspaper published in the place nearest to the work required to be done; and in the event of any such contract made since the thirtieth of June, one thousand eight hundred and fifty-eight, or made after this Act takes effect, by or on behalf of any Director, an action shall lie in any Court of Common Law, or other Court of competent jurisdiction against such Director, at the suit of any Shareholder or Stockholder of the Company, for the benefit of the funds thereof, for the whole amount of profit accruing to such Director from the Contract so made or fulfilled." 35
- Officers of Company cannot be Directors.** 40
- 14, 15 V. c. 51, s. 16, No. 8.—22 V. c. 4, s. 1. 45

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47. The Directors shall make By-laws for the management and disposition of the stock, property, business and affairs of the Company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and prescribing their respective duties. *Ibid.*, s. 16, No. 9.

By-laws for management of stock, &c.

12. CALLS.

48. The Directors may from time to time make such calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call, and no call shall exceed the prescribed amount determined in the Special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the Special Act. *Ibid.*, No. 10.

Calls.

49. All notices of meetings or of calls upon the Shareholders of the Company shall be published weekly in the *Canada Gazette*, and the said *Gazette* shall, on production thereof, be conclusive evidence of the sufficiency of such notices. *Ibid.*, No. 24.

Notice of meetings how published.

50. Every Shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the Company or the Directors.

Payment of calls how to be made.

51. If before or on the day appointed for payment, any Shareholder does not pay the amount of the call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

Interest to be charged on unpaid calls.

52. If at the time appointed for the payment of any call, any Shareholder fails to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which the call became payable.

Amount of call may be recovered by suit.

53. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls, whereby an action hath accrued to the Company by virtue of the Special Act.

Certain formalities not necessary in actions for calls.

Certificate of proprietorship *prima facie* evidence.

54. The Certificate of Proprietorship of any share shall be admitted in all Courts, as *prima facie* evidence of the title of any Shareholder, his executors, administrators, successors or assigns, to the share therein specified.

55. But the want of such Certificate shall not prevent the holder of any share from disposing thereof.

Penalty for refusal to pay calls.

56. Any persons neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof.

Forfeiture of share not to be taken advantage of unless declared at a general meeting.

57. No advantage shall be taken of the forfeiture, unless the same is declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture incurred.

58. Every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting against all actions, suits or prosecutions whatever, commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the undertaking.

Directors may sell forfeited shares by auction.

59. The Directors may sell, either by public auction or private sale, and in such manner and on such terms as to them seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the Capital Stock of the Company, or pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made thereon, or of any sums of money borrowed or advanced by or to the Company.

Certificate of Treasurer to be evidence of forfeiture.

60. A Certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and of their purchase by the purchaser, and such certificate with the receipt of the Treasurer for the price of such shares, shall constitute a good title to the shares, and the Certificate shall be by the said Treasurer enregistered in the name and with the place of abode and occupation of the purchasers, and shall be entered in the Books required to be kept thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregularity in the proceedings in reference to such sale, and any Shareholder may purchase any shares so sold.

61. Shareholders willing to advance the amount of their shares, or any part of the money due upon the respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the Company may pay interest at the legal rate of interest for the time being, as the Shareholders paying such sum in advance and the Company agree upon : but such interest shall not be paid out of the Capital subscribed.

Interest to be allowed to Shareholders paying money in advance on their shares.

62. The Directors shall cause to be kept, and annually on the thirty-first day of December shall cause to be made up and balanced, a true exact and particular account of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the Company or the Directors.

Directors to cause annual accounts to be kept.

63. At the general meetings of the Shareholders of the undertaking, from time to time holden, a dividend shall be made out of the clear profits of the undertaking, unless such meetings declare otherwise.

Declaration of dividend.

64. Such dividend shall be at and after the rate of so much per share upon the several shares held by the Shareholders in the stock of the Company, as such meeting think fit to appoint or determine.

At so much per share.

65. No dividend shall be made whereby the capital of the Company is in any degree reduced or impaired, or be paid thereout, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof until such call has been paid.

Dividends not to impair the Capital.

66. The Directors may, in their discretion, until the Railroad is completed and opened to the public, pay interest at any rate not exceeding Six ~~Pounds~~ per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same have been paid, such interest to accrue and be paid at such times and places as the Directors appoint for that purpose.

Directors may pay interest on sums called up in respect of shares.

67. No interest shall accrue to the proprietors of any share upon which any call is in arrear in respect of such shares or any other share to be holden by the same Shareholder while such call remains unpaid, nor shall any interest be paid or taken from the capital subscribed.

No interest on Shares in arrear.

May appoint officers.

68. The Directors shall from time to time appoint such Officers as they deem requisite, and shall take sufficient security, by one or more penal Bonds, or otherwise, from the Manager and Officers for the time being, for the safe keeping and accounting by them respectively of the moneys raised by virtue of this Act and the Special Act, and for the faithful execution of their offices, as the Directors think proper.

Vice-President to act in the absence of the President

69. In case of the absence or illness of the President, the Vice-President shall have all the rights and powers of the President, and may sign all Notes, Bills, Debentures, and other Instruments, and perform all acts which by the Regulations and By-laws of the Company or by the Acts incorporating the Company are required to be signed, performed and done by the President.

Absence of President may be entered in the minutes, and certified, &c.

70. The Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a Certificate thereof signed by the Secretary shall be delivered to any person or persons requiring the same on payment to the Treasurer of ~~Five Shillings~~, and such Certificate shall be taken and considered as *prima facie* evidence of such absence or illness, at and during the period in the said Certificate mentioned, in all proceedings in Courts of Justice or otherwise. 14, 15 V. c. 51, s. 16.

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13. SHARES AND THEIR TRANSFER.

Shareholders may dispose of shares.

71. Shares in the undertaking may, by the parties, be sold and disposed of by instrument in writing, to be made in duplicate, one part of which shall be delivered to the Directors, to be filed and kept for the use of the Company, and an entry thereof shall be made in a Book to be kept for that purpose; and no interest on the shares transferred shall be paid by the purchaser until such duplicate is so delivered, filed and entered. 14, 15 V. c. 51, s. 17.

Form of sale.

72. Sales shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require :

I, A. B., in consideration of the sum of _____, paid \$5 to me by C. D., hereby do sell and transfer to him _____ share (or shares) of the stock of the _____, to hold to him the said C. D. his Heirs, Executors, Administrators and Assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof. And I, the said C. D. do hereby agree to accept of the said _____ share (or shares) subject to the same rules, orders and conditions. Witness our hands this _____ day of _____ in the year of _____

Handwritten signature

73. The Stock of the Company shall be deemed personal estate, but no shares shall be transferable until all previous calls thereon have been fully paid in, or the said shares have been declared forfeited for the non-payment of calls thereon, and no transfer of less than a whole share shall be valid. 14, 15 V. c. 51, s. 17.

Stock to be personal estate—Transfer of.

74. If any share in the Company be transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any Shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the party to whom such share is so transmitted, shall deposit in the office of the Company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary, and without which such party shall not be entitled to receive any share of the profits of the Company, nor vote in respect of any such share as the holder thereof. 14, 15 V. c. 51, s. 17.

Transmission of shares other than by transfer, provided for.

14. MUNICIPALITIES.

75. Municipal Corporations in this Province may subscribe for any number of shares in the Capital Stock of, or lend to or guarantee the payment of any sum of money borrowed by the Company from any Corporation or person, or indorse or guarantee the payment of any Debenture to be issued by the Company for the money by them borrowed, and may assess and levy from time to time upon the whole rateable property of the Municipality a sufficient sum for them to discharge the debt or engagement so contracted, and for the like purpose may issue Debentures payable at such times and for such sum respectively, not less than ~~five pounds~~ and bearing or not bearing interest, as such Municipal Corporation thinks meet. 14, 15 V. c. 51, s. 18.

Municipal Corporations may take stock.

\$ 20.

76. Any such Debenture issued, indorsed or guaranteed, shall be valid, and binding upon the Municipal Corporation, if signed or indorsed, and countersigned by the officer or person, and in such manner and form as directed by any By-law of the Corporation, and the Corporation Seal thereto shall not be necessary, nor the observance of any other form with regard to the Debentures than such as directed in the By-law. 14, 15 V. c. 51, s. 18.

Debentures issued by them to be binding.

77. No Municipal Corporation shall subscribe for Stock or incur any debt or liability under this Act or the Special Act, unless and until a By-law to that effect has been duly made, and adopted with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in the manner determined by the By-law, after public advertisement thereof.

They cannot subscribe for stock unless By-laws are made for that purpose.

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thereof containing a copy of such proposed By-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspapers printed in the nearest City or Town thereto and circulated therein, and also put up in at least four of the most public places in each Municipality. 14, 15 V. c. 51, s. 18.

Mayor, &c., to be *ex officio* a Director in certain cases.

78. The Mayor, Warden or Reeve, being the Head of such Municipal Corporation, subscribing for and holding Stock in the Company, to the amount of ~~Five Thousand Dollars~~, or upwards, shall be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company. 14, 15 V. c. 51, s. 18.

79. No such Mayor, Warden, Reeve or other chief officer or other person representing any Municipality having or taking ~~Stock in any Railway Company~~ shall, directly or indirectly, vote on the election or appointment of the Private Directors of any Railway Company incorporated previous to or during the Session held in the sixteenth year of Her Majesty's Reign, unless the Special Act of Incorporation of such Company expressly provides therefor. 16 V. c. 169, s. 5.

15. SHAREHOLDERS.

Shareholders individually liable.

80. Each Shareholder shall be individually liable to the creditors of the Company to an amount equal to the amount unpaid on the Stock held by him, for the debts and liabilities thereof, and until the whole amount of his Stock has been paid up; but shall not be liable to an action therefor before an execution against the Company has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders. 14, 15 V. c. 51, s. 19.

Stock may be increased.

81. The original Capital Stock may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the Shareholders, at a meeting of them expressly called by the Directors for that purpose, by a notice in writing to each Shareholder, served on him personally, or properly directed to him, and deposited in the Post Office nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase, and the proceedings of such meeting, and be entered on the Minutes of the proceedings, and thereupon the Capital Stock may be increased to the amount sanctioned by such a vote. 14, 15 V. c. 51, s. 19.

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Translator!

82. The funds of the Company shall not be employed in the purchase of any Stock in their own or in any other Company. 14, 15 V. c. 51, s. 19. Company not no take stock in other companies.

16. ACTIONS FOR INDEMNITY, AND FINES AND PENALTIES AND THEIR PROSECUTION.

83. All suits for indemnity for any damage or injury sustained by reason of the Railway, shall be instituted within six months next after the time of such supposed damage sustained, or if there be continuation of damage, then within six months next after the doing or committing such damage ceases, and not afterwards; and the Defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the Special Act. 14, 15 V. c. 51, s. 20. Limitation of assignees for damages.

84. Every person who, by any means or in any manner or way whatsoever, obstructs or interrupts the free use of the Railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the common Gaol of the District or County where the conviction takes place, or in the Provincial Penitentiary, for a term not to exceed five years. 14, 15 V. c. 51, s. 20. Penalty on persons obstructing free use of Railway.

85. All persons wilfully and maliciously, and to the prejudice of the Railway, breaking, throwing down, damaging or destroying the same, or any part thereof, or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental and relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Railway, vessels or works, or obstructing, hindering or preventing the carrying on, completing, supporting and maintaining the Railway, shall be guilty of a misdemeanor, unless the offence committed amounts, under some other Act or Law, to a felony, in which case such person shall be guilty of a felony, and the Court by and before whom the person is tried and convicted, may cause such person to be punished in like manner as persons guilty of misdemeanor or felony (as the case may be) are directed to be punished by the laws in force in this Province. 14, 15 V. c. 51, s. 20. Penalty on persons damaging Railway.

86. All fines and forfeitures imposed by this Act or the Special Act, or by any By-law, the levying and recovering of which are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, County or place where the act occurred, either Fines how recovered.

either by the confession of the party, or by the oath or affirmation of any one credible witness, to be administered without fee or reward, be levied by distress and sale of the offender's goods and chattels, by Warrant under the hand and seal or hands and seals of such Justice or Justices. 14, 15 V. c. 51, s. 20. 5

How applicable.

87. All fines, forfeitures and penalties, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer of the Company, to be applied to the use thereof, and the overplus of the money so raised, after deducting the penalty and the expenses of the levying and recovering thereof, shall be returned to the owner of the goods so distrained and sold. 14, 15 V. c. 51, s. 20. 10

When party may be committed.

88. In case sufficient goods and chattels whereof to levy the penalty and expense, are not found, the offender shall be sent to the common Gaol for the County or District in which he has been convicted, there to remain without bail or main-prize, for such term, not exceeding one month, as the Justice or Justices think proper, unless the penalty or forfeiture, and all expenses attending the same, be sooner paid and satisfied. 15

Appeal.

89. Every such person or persons may, within four months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County or District. 14, 15 V. c. 51, s. 20. 20

Contravention of this Act, &c., to be a misdemeanor.

90. All contraventions of this Act or of the Special Act, by the Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the Company, if they be the offending party, from the forfeiture by this Act and the Special Act, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention. 14, 15 V. c. 51, s. 20. 25

By-laws to be put into writing and signed by Chairman.

91. All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person presiding at the meeting at which they are adopted, and shall be kept in the office of the Company; and a printed copy of so much of them as relates to or affects any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every place where tolls are to be gathered, and in like manner so often as any change or alteration is made to the same; and any copy of the same, or of any of them, certified as correct by the President or Secretary, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof. 14, 15 V. c. 51, s. 20, No. 6. 35 40 45

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92. All such By-laws, Rules and Orders shall be submitted from time to time to the Governor, for approval. 14, 15 V. c. 51, s. 20. By-laws to be submitted to Governor.

93. Copies of the Minutes of proceedings and resolutions of the Shareholders of the Company, at any general or special meeting, and of the Minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the Minute-books kept by the Secretary of the Company, and by him certified to be true copies, extracted from such Minute-books, shall be *prima facie* evidence of such proceedings and resolutions in all Courts of civil jurisdiction. Copies of Minutes to be *prima facie* evidence.

94. All notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the Directors and Company. 14, 15 V. c. 51, s. 20. Notices by Sec. 7, valid.

17. WORKING OF THE RAILWAY.

95. Every servant of the undertaking employed in a passenger train or at a station for passengers, shall wear upon his hat or cap, a badge, which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property. 14, 15 V. c. 51, s. 21. Servants to wear badges.

96. The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other Railways and at usual stopping places established for receiving and discharging way-passengers and goods from the trains. 14, 15 V. c. 51, s. 21. Trains to start at regular hours.

97. Such passengers and goods shall be taken, transported and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorized therefor. 14, 15 V. c. 51, s. 21. Passengers and goods to be carried in payment of fare or freight.

98. The party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company. 14, 15 V. c. 51, s. 21. The Company liable for neglect or refusal.

99. Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, and a duplicate of such Check shall be given to the passenger delivering the same. 14, 15 V. c. 51, s. 21. Checks to be fixed on parcels.

100. If such Check be refused on demand, the Company shall pay to such passenger, the sum of ~~Two Pounds~~ to be recovered Penalty for refusing to give Checks

eight dollars

recovered in a civil action ; and further, no fare or toll shall be collected or received from such passenger, and if he has paid his fare, the same shall be refunded by the Conductor in charge of the train. 14, 15 V. c. 51, s. 21.

Passenger a witness in his own behalf. **101.** Any passenger producing such Check, may himself be a witness in any suit brought by him against the Company, to prove the contents and value of his baggage not delivered to him. 14, 15 V. c. 51, s. 21.

Baggage cars not to be in rear of passenger cars. **102.** The baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall severally be guilty of a misdemeanor, and be punished accordingly. 14, 15 V. c. 51, s. 21.

Locomotives to have bells or steam whistles. **103.** Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, or with a steam whistle. 14, 15 V. c. 51, s. 21.

To be rung or sounded at every crossings, &c. **104.** The bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Railway crosses any highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway, under a penalty of ~~Two Pounds~~ for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one half of which penalty and damages shall be chargeable to and collected by the Company from the Engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid. 14, 15 V. c. 51, s. 21.

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Intoxicated conductor of locomotive. **105.** All persons in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who is intoxicated shall be deemed guilty of a misdemeanor. 14, 15 V. c. 51, s. 21.

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Passenger refusing to pay fare may be put out. **106.** Any Passenger refusing to pay his fare, and his baggage, may, by the conductor of the train and the servants of the Company, be put out of the cars, at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. 14, 15 V. c. 51, s. 21.

Passengers to have no claim if injured when on platform of cars, &c. **107.** Any passenger injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations posted up at the time in a conspicuous place inside of the passenger cars then in the train, shall have no claim for the injury, provided room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. 14, 15 V. c. 51, s. 21.

18.

~~18.~~ GENERAL PROVISIONS.

108. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the party in whose name any share stands in the Books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts. 14, 15 V. c. 51, s. 22.

Company not bound to see to execution of trusts.

109. Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on Her Majesty's service, shall at all times, when thereunto required by Her Majesty's Provincial Postmaster General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if required, be carried on the Railway, on such terms and conditions, and under such regulations as the Governor in Council makes. 14, 15 V. c. 51, s. 22.—12 V. c. 28, s. 1.

Provisions to the carriage of Her Majesty's Mail, &c.

110. The Governor, or any person thereunto authorized by him, may require the Company to place any Electric Telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service. 14, 15 V. c. 51, s. 22.

111. Any further enactments which the Legislature of this Province may hereafter make, for the carriage of the Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any Electric Telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act. 14, 15 V. c. 51, s. 22.

112. A true and perfect account of the names and places of abode of the several Shareholders shall be entered in a Book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of, or entitled to any shares therein, and of all the other acts, proceedings and transactions of the Company and of the Directors for the time being. 14, 15 V. c. 51, s. 22.

Account of names and residence of Shareholders to be kept.

Translator!

Map, &c., of
Railway to be
filed in the
Board of
Works' Office.

113. A Map and Profile of the completed Railway and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking, be made and filed in the office of the Commissioners of Public Works, and like maps of the parts thereof located in different Counties, shall be filed in the Registry Offices for the Counties in which such parts are respectively situate. 14, 15 V. c. 51, s. 22. 5

On what scale
and paper to
be drawn

114. Every such Map shall be drawn on such a scale, and on such paper, as may from time to time be designated for that purpose by the Chief Commissioner of Public Works, and shall be certified and signed by the President or Engineer of the Corporation. 14, 15 V. c. 51, s. 22. 10

Account to be
submitted to
Legislature.

115. After the opening of the Railway or any part thereof to the public, and within the first fifteen days after the opening of each Session of the Provincial Parliament, an account shall be annually submitted to the three branches of the Legislature, containing a detailed and particular account, attested upon oath of the President, or in his absence of the Vice-President, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement. 14, 15 V. c. 51, s. 22. 15

Variation in
form or details
may be made.

116. No further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company. 14, 15 V. c. 51, s. 22. 20

Ten per cent.
to be paid
within three
years from
passing of
Special Act.

117. If the construction of the Railway be not commenced, and ten per cent. on the amount of the capital be not expended thereon, within three years after the passing of the Special Act, or if the Railway is not finished and put in operation in ten years from the passing of such Special Act, its corporate existence and powers shall cease. 14, 15 V. c. 51, s. 22. 25

Parliament
may reduce
tolls on Rail-
ways.

118. The Legislature of this province may from time to time reduce the tolls upon the railway, but not without consent of the company, or so as to produce less than fifteen per cent. per annum profit on the capital actually expended in its construction; nor unless, on an examination made by the Commissioners of Public Works of the amount received and expended by the company, the net income from all sources, for the year then last passed, is found to have exceeded fifteen per cent. upon the capital so actually expended. *Ibid.* 40

As to goods of
a dangerous
nature.

119. No person shall be entitled to carry or to require the company to carry upon their railway, *aqua fortis*, oil of vitriol, gunpowder, 45

? of the Company -

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gunpowder, lucifer matches, or any other goods, which, in the judgment of the company, may be of a dangerous nature ; and if any person sends by the said railway any such goods without, at the time of so sending the said goods, distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the book-keeper or other servant of the company with whom the same are left, he shall forfeit to the company the sum of ~~five pounds~~ ~~carriage~~ for every such offence. *Ibid.*

10 **120.** The company may refuse to take any package or parcel which they suspect to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact. *Ibid.* Dangerous goods to be refused.

15 **121.** The offence of forging any debentures or a coupon of any debenture issued under the authority of this Act or of the Special Act, or of uttering any such debenture or coupon, knowing the same to be forged, or of being accessory before or after the fact to any such offence, shall be deemed felony, and be punished accordingly. *Ibid.* Forging Debentures, &c., deemed felony.

20 **122.** The company shall make and keep in repair all fences, roads and water courses, and be subject to all municipal regulations and provisions in respect thereof in or for lands belonging to or held by the company, and subject to any such regulations, or to any charges, public, municipal or local, as the case may be, in any county, parish or township in Lower Canada through which the railway passes ; and the company may, in default or contravention thereof, be prosecuted therefor by the officers of the municipality, before the Commissioners Court or Circuit Court within the jurisdiction of which such fence, road or water course may be, and the service of the summons upon any clerk or officer in charge of the section of the railway within the said jurisdiction, or at the nearest depot of the railway, shall be good service upon the company. *Ibid.* Company bound to make and repair fences, roads, &c., in L. C., &c.

123. Every Special Railway Act shall be a Public Act. Special Act to be a Public Act.

25 **124.** The Legislature may at any time annul or dissolve any corporation formed under this Act ; but such dissolution shall not take away or impair any remedy given against any such corporation, its shareholders, officers or servants, for any liability which had been previously incurred. *Ibid.* And may dissolve any Corporation formed under this Act.

30 **125.** Nothing herein contained shall affect in any manner the rights of Her Majesty, or of any person, or of any body politic, corporate or collegiate, such only excepted as are herein mentioned. *Ibid.* Saving of Her Majesty's Rights.

126. No amendment or alteration in this Act shall be held to be an infringement of the rights of any company authorized to construct a railway by any Act passed on or since the 30th of August, 1851, or by any Act of this or any future Session with which this Act is incorporated. 14 & 15 V. c. 51, s. 22.

GENERAL PROVISION FOR ALL RAILWAY.

Interpretation.

127. Unless otherwise provided, the following sections shall apply to every Railway made or to be made in this Province. 16 V. c. 169, s. 10.

19. POWERS.

Any Railway Company may construct Branch Railways, on certain conditions.

128. Any Incorporated Railway Company may construct a branch or branches not exceeding six miles in length from any terminus or station of the Railway of such Company, whenever a By-law sanctioning the same has been passed by the Municipal Council of the Municipality within the limits of which such proposed branch is situate, and no such branch shall as to the quality and construction of the road, be subject to any of the restrictions contained in the special Act of Incorporation of such Company or in this Act, nor shall any thing in either of the said Acts authorize any Company to take for such branch any lands belonging to any party without the consent of such party first obtained. 16 V. c. 169, s. 9.

Changes may be made in the line of a Railway at any time for certain purposes.

129. Any Railway Company desiring at any time to change the location of its line of Railway in any particular part for the purpose of lessening a curve, reducing a gradient, or otherwise benefitting such line of Railway, or for any other purpose of public advantage, may make such change; and all and every the clauses of this Act shall refer as fully to the part of any such line of Railway so at any time changed or proposed to be changed as to the original line; but no Railway Company shall have any right to extend its line of Railway beyond the termini mentioned in the Act incorporating such Company. 22 V. c. 4, s. 2.

But not without application to the Board of Railway Commissioners.

130. No Railway Company shall avail itself of any of the powers contained in the fifteenth sub-section of the ninth section of this Act without application to the Board of Railway Commissioners, constituted by the one hundred and seventy-eighth section of this Act, of which application notice in writing shall be given to any other Railway affected, by sending same by mail, or otherwise, to the address of the President, Superintendent, Managing Director or Secretary of any such Railway Company, for approval, of the mode of crossing, union or intersection proposed: and when such approval has been obtained, it shall be lawful for either Railway, in case of disagreement as to the amount to be paid for compensation, to proceed for such compensation as provided in the said sub-section. 22 V. c. 4, s. 2,—14, 15 V. c. 51, s. 9, No. 15.

One Company may agree with another respecting traffic.

131. The Directors of any Railway Company may at any time, and from time to time, make and enter into any agreement or arrangement with any other Company, either in this Province or elsewhere, for the regulation and interchange of Traffic passing to and from the Railways of the said Companies,

Companies, and for the working of the Traffic over the said Railways respectively, or for either of those objects separately, and for the division and apportionment of tolls, rates and charges in respect of such Traffic, and generally in relation to the management and working of the Railways, or any of them, or any part thereof, and of any Railway or Railways in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a Joint Committee or Committees for the better carrying into effect any such agreement or arrangement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two thirds of the Stockholders voting in person or by proxy. 22 V. c. 4, s. 2.

15 **132.** The provisions of the three last sections of this Act shall, from the time it takes effect apply to every Railway made or to be made in this Province, but shall not apply to any thing done before the thirtieth of June, one thousand eight hundred and fifty-eight. 22 V. c. 4, s. 2. Application of the three last sections.

20. LANDS AND THEIR VALUATION.

20 **133.** No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council; but with such consent any such Company may take and appropriate for the use of their Railway and works, but not alienate, so much of the wild lands of the Crown lying on the route of the said Railway, as have not been granted or sold, and as may be necessary for their Railway, as also so much of the land covered with the waters of any Lake, River, Stream or Canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works, but nothing in this section contained, shall apply to the thirty and thirty-first paragraphs of the eleventh Section of this Act. 16 V. c. 169, s. 8. Conditions on which the Company may carry their Railway across any Canal, Rivers, or navigable water.

21. RAILWAY GROUNDS TO BE KEPT IN ORDER.

35 **134.** Every Railway Company, whether any of the clauses or provisions of this Act be or be not incorporated with the Act incorporating such Company, shall cause all cleared land or ground adjoining their Railway and belonging to such Company, to be sown or laid down with grass or turf, and cause the same so far as may be in their power to be covered with grass or turf, if not already so covered, and cause all thistles and other noxious weeds growing on such land or ground, to be cut down and kept constantly cut down or to be rooted out of the same. 16 V. c. 169 s. 7. Ground adjoining any Railway and belonging to the Company to be laid down with grass and cleared of weeds, &c.

40 **135.** If any Railway Company fails to comply with the requirements of the last preceding Section within twenty days after Consequences of omitting to do so.

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after they have been required to comply with the same, by notice from the Mayor, Reeve or Chief Officer of the Municipality of the Township or County in which the land or ground lies, such Company shall thereby incur a penalty of ~~ten shillings~~ to the use of the Municipality for each day during which they neglect to do any thing which they are lawfully required to do by such notice, and the said Mayor, Reeve or Officer may cause all things to be done which the said Company were lawfully required to do by such notice, and for that purpose may enter by himself and his assistants or workmen upon such lands or grounds, and such Municipality may recover the expenses and charges incurred in so doing, and the said penalty with costs of suit, in any Court having jurisdiction in civil cases to the amount sought to be recovered. 16 V. c. 169, s. 7.

22. HIGHWAYS AND BRIDGES.

Not to impede navigation.

136. No such Company shall cause any obstruction in or impede the free navigation of any river, stream or canal to or across or along which their Railway is carried. 16 V. c. 169, s. 8.

Railways crossing Rivers, &c., regulated.

137. If the Railway be carried across any navigable river or canal, the Company shall leave openings between the abutments or piers of their bridge or viaduct over the same, and shall make the same of such clear height above the surface of the water, or shall construct such draw bridge or swing bridge over the channel of the river, or over the whole width of the canal, and shall be subject to such regulations as to the opening of such swing bridge or draw bridge as the Governor in Council from time to time makes. 16 V. c. 169, s. 8.

Plans to be submitted to the Governor in Council.

138. It shall not be lawful for any such Company to construct any wharf, bridge, pier or other work upon or over any navigable river, lake or canal, or upon the beach or bed or lands covered with the waters thereof, until they have first submitted the plan and proposed site of such work to the Governor in Council, and the same has been by him approved; and no deviation from such approved site and plan shall be made without his consent. 16 V. c. 169, s. 8.

Exception where special powers given by the Special Act.

139. Nothing contained in the one hundred and thirty-third, one hundred and thirty-sixth, one hundred and thirty-seventh and one hundred and thirty-eighth sections, or in the thirtieth and thirty-first Paragraphs of the eleventh Section of this Act, shall be construed to limit or affect any power expressly given to any Railway Company by its special Act of Incorporation or any special Act amending the same. 16 V. c. 169, s. 8.

Governor may order permanent bridges to be substi-

140. The Governor in Council, upon the Report of the Board of Railway Commissioners, may authorize or require any Railway Company to construct fixed and permanent bridges

bridges or to substitute such bridges in the place of the swing, draw or moveable bridges on the ~~line of such Railway~~, within such time as the Governor in Council directs; and for every day after the period so fixed during which the Company uses such swing, draw or moveable bridges, the Company shall forfeit and pay to Her Majesty the sum of ~~£50 pounds~~; and it shall not be lawful for any Railway Company to substitute any swing, draw or other moveable bridge in the place or stead of any fixed or permanent bridge already built and constructed without the consent of the Governor in Council previously had and obtained. 20 V. c. 12, s. 7.

tuted for moveable bridges.

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141. In any case where a Railway commenced after the 27th May, 1857, is constructed or authorized to be constructed, across any turnpike road, street or other public highway, on the level, the Board of Railway Commissioners, if it appears to them necessary for the public safety, may, with the sanction of the Governor in Council, authorize and require the Company to whom such Railway belongs, within such time as the said Board directs, to carry such road, street or highway either over or under the said Railway, by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as under the circumstances of the case appear to the said Board the best adapted for removing or diminishing the danger arising from such level crossing; and all the provisions of law at any such time applicable to the taking of land by Railway Companies and its valuation and conveyance to them, and to the compensation therefor, shall apply to the case of any land required for the construction of any works for effecting the alteration of such level crossing. 20 V. c. 12, s. 11.

Certain powers vested in Railway Commissioners, with respect to crossing public highways, on a level.

142. Every Railway Company shall station an officer at every point on their line crossed on a level by any other Railway, and no train shall proceed over such crossing until signal has been made to the Conductor thereof that the way is clear. 20 V. c. 12, s. 11.

Further precautions at level crossings.

143. Every locomotive or Railway engine or train of cars, on any Railway, shall, before it crosses the track of any other Railway on a level, be stopped for at least the space of three minutes. 20 V. c. 12, s. 11.

Further precautions when one Railway crosses another on a level;

144. No locomotive or Railway engine shall pass in or through any thickly peopled portion of any City, Town or Village at a speed greater than six miles per hour, unless the track is properly fenced. 20 V. c. 12, s. 11.

Or runs through a city, town, &c.

145. Whenever any train of cars is moving reversely in any City, Town or Village, the locomotive being in the rear, the Company shall station on the last car in the train a person who shall warn parties, standing on or crossing the track of

Or moves reversely.

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of such Railway, of the approach of such train, under a penalty of ~~twenty five pounds~~ for any contravention of the above provisions. 20 V. c. 12, s. 11.

Foot passengers to use foot-bridge, if provided for that purpose at level crossings.

146. If the Board of Railway Commissioners order any Railway Company to erect at or near or in lieu of any level crossing of a turnpike road, or other public highway, a foot-bridge or foot-bridges over their Railway for the purpose of enabling persons passing on foot along such turnpike road or public highway to cross the Railway by means of such bridge or bridges, then, from and after the completion of such foot bridge or foot-bridges so required to be erected, and while the Company keeps the same in good and sufficient repair, such level crossing shall not be used by foot passengers on the said turnpike road or public highway, except during the time when the same is used for the passage of carriages, carts, horses or cattle along the said road. 20 V. c. 12, s. 12.

No cattle to be allowed to be at large on any highway within half a mile of any Railway.

147. No horses, sheep, swine or other cattle, shall be permitted to be at large upon any highway within a half mile of the intersection of such highway with any Railway on grade unless such cattle are in charge of some person or persons to prevent their loitering or stopping on such highway at such intersection. 20 V. c. 12, s. 16.

Such cattle may be impounded.

148. All cattle found at large in contravention of, the last preceding section may, by any person finding the same at large, be impounded in the nearest pound to the place where the same are so found, and the pound-keeper with whom the same are so impounded shall detain the same in the like manner, and subject to the like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property. 20 V. c. 12, s. 16.

If killed owner not entitled to any action.

149. No person, any of whose cattle being at large, contrary to the provisions of the section aforesaid are killed by any train at such point of intersection, shall have any action against any Railway Company in respect to the same being so killed. 20 V. c. 12, s. 16.

Crossings to be fenced.

150. At every road and farm crossing on the grade of the Railways in this Province, the crossing shall be sufficiently fenced on both sides of such points, so as to allow the safe passage of the trains. 20 V. c. 12, s. 18.

Translators!

By-laws imposing tolls to be approved by the Governor in Council.

23. BY-LAWS REGULATING TOLLS.
151. The By-laws of every Railway Company regulating the Tolls to be taken on such road shall be subject to the approval of the Governor in Council, and no By-law of any Road or Railway Company in this Province by which any Tolls are to be imposed or altered, or by which any party other than the Members, Officers and Servants of the Company are intended to be bound, shall have any force or effect until the same has

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has been approved and sanctioned by the Governor in Council.
10, 11 V. c. 63, s. 14.--12 V. c. 28, s. 2.

24. PENAL CLAUSES.

152. If any person wilfully and maliciously displaces or re-
moves 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 pro-
perty passing over and along such Railroad be injured, such
offence shall be an aggravation of the offence, and shall subject the
offender to such punishment by imprisonment in the Peniten-
tiary for not less than one year nor more than two years, as the
circumstances of the case, in the opinion of the Court before
which he has been convicted, appears to be proportionate to
the offence and the mischief occasioned by it. 16 V. c. 169, s. 1.

Punishment of
persons doing
any thing to
Railway with
intent to in-
jure persons
or property.

And if such
damage be ac-
tually done.

*take note from
corrected copy.
(Francis Cator)*

153. If any person wilfully and maliciously displaces or re-
moves 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 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.

And if any
person be kill-
ed or his life
be lost, the
offence to be
manslaughter
and punish-
able as such.

154. If any person wilfully and maliciously does or causes to
be done, any act whatever whereby any building, fence, cons-
truction 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

Committing
any injury,
stoppage, &c.,
to be a misde-
meanor.

~~This differs from the 14, 15 V. c. 2 s. 2~~
51

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 ten pounds, 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.

Company to notify orders of Board to its officers, &c.

156. Every Railway Company, shall, as soon as possible after the receipt of any order or notice of the Board of Railway Commissioners, give cognizance thereof to each of its officers and servants, in one or more of the ways mentioned in the one hundred and fifty-eighth to one hundred and sixty-fourth section of this Act. 20 V. c. 12, s. 15.

What to be deemed sufficient notice thereof.

157. All orders of the said Board of Railway Commissioners shall be considered as made known to the said Railway Company by a notice thereof signed by the Chairman and countersigned by the Secretary of the said Board, and delivered to the President, Vice-President, Managing Director, Secretary or Superintendent of the said Company, or at the office of the said Company. 20 V. c. 12, s. 15.

Punishment of officers, &c., contravening by-laws, &c.

158. If any officer or servant of, or person employed by any Rail-way Company, wilfully or negligently contravenes any By-law or Regulation of the Company lawfully made and in force, or any Order or Notice of the Board of Railway Commissioners, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, then if such contravention causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been without such contravention, although no actual injury occurs, such contravention shall be a misdemeanor, and the person convicted thereof shall in the discretion of the Court before whom the conviction is had, and according as such Court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both, so as no such fine exceeds ~~one hundred pounds~~ nor any such imprisonment the term of five years: and such imprisonment, if for two years or upwards, shall be in the Provincial Penitentiary. 19 V. c. 11, s. 1.

\$ 400.

20/

159.

159. If such contravention does not cause injury to any property or person, nor expose any person or property to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant or other person guilty thereof, shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the Company, in the discretion of the Justice of the Peace before whom the conviction is had; and such penalty shall be recoverable with costs before any one Justice of the Peace having jurisdiction where the offence has been committed, or where the offender is found, on the oath of one credible witness other than the informer. 19 V. c. 11, s. 1.

Penalty.

e/

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160. One moiety of such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the informer, unless he be an officer or servant of, or person in the employ of the Company, in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty for the uses aforesaid. 19 V. c. 11 s. 1.

Application of.

20/

161. The Company may in all cases under this Act pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay. 19 V. c. 11, s. 1.

The Company may pay penalty and deduct from wages.

20/

162. Any Rail-way Company may by a By-law impose upon any officer, servant, or person who before the contravention of such By-law has had notice thereof and is employed by the Company, a forfeiture to the Company of not less than thirty days' pay of such officer or servant, for any contravention of such By-law, and may retain any such forfeiture out of the salary or wages of the offender. 19 V. c. 11, s. 2.

Company may impose penalties for contravention of By-laws.

20/

163. The notice of the By-law or of any order or notice of the Board of Rail-way Commissioners may be proved by proving the delivery of a copy thereof to the officer, servant or person, or that he signed a copy thereof, or that a copy thereof was posted in some place where his work or his duties, or some of them, were to be performed. 19 V. c. 11, s. 2.

How notice of By-laws or Orders may be proved.

20/

164. Such proof, with a proof of the contravention, shall be a full answer and defence for the Company in any suit for the recovery from it of the amount so retained, and such forfeiture shall be over and above any penalty under the preceding section. 19 V. c. 11, s. 2.

When such proof, &c., to be a defence for the Company.

20

25. WORKING OF THE RAILWAY.

165. No Railway or portion of any Railway shall be opened for the public conveyance of passengers until one month after notice in writing of the intention to open the same has been given by the Company to whom the Railway belongs to the Board of Railway Commissioners, and until ten

Railway not to be opened till after one month's notice of intention to open the same.

ten days after notice in writing has been given by the said Company to the said Board of Railway Commissioners, of the time when the said railway or portion of Railway will be, in the opinion of the Company, sufficiently completed for the safe conveyance of passengers, and ready for inspection. 20 V. c. 12, s. 4.

Penalty for contravention.

\$200

166. If any Railway or portion of a Railway be opened without such notices, the Company to whom such Railway belongs, shall forfeit to Her Majesty the sum of ~~£50~~ ^{£10} pounds for every day during which the same continues open, until the said notices have been duly given and have expired. 20 V. c. 12, s. 5.

Railway Commissioners upon report of Inspectors and approval of Governor in Council, may order postponement of opening of road.

e /
C /

167. If the Railway Inspector or Inspectors, after inspection of any Railway, report in writing to the Board of Railway Commissioners that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such Railway, together with the ground of such opinion, the Board of Railway Commissioners, with the sanction of the Governor in Council, and so from time to time, as often as such Inspector or Inspectors after further inspection thereof so reports, may order and direct the Company to whom the Railway belongs to postpone such opening not exceeding one month at any one time, until it appears to the said Board that such opening may take place without danger to the public. 20 V. c. 12, s. 6.

Penalty for opening contrary to the order of the Commissioners.

\$200

168. If any such Railway, or any portion thereof, be opened contrary to such order or direction of the Board of Railway Commissioners, the Company to whom the Railway belongs shall forfeit to Her Majesty the sum of ~~£50~~ ^{£30} pounds for every day during which the same continues open contrary to such order or direction. 20 V. c. 12, s. 6.

When only such order to be binding on the Company.

169. No such order shall be binding upon any Railway Company unless therewith is delivered to the Company a copy of the report of the Inspector or Inspectors on which the order is founded. 20 V. c. 12, s. 6.

When a Railway passes over a swing bridge, &c., Train to stop for 3 minutes.

\$400

way

170. In all cases where a Railroad passes any Draw or Swing Bridge over a navigable River, Canal or Stream which is subject to be opened for the purposes of navigation, the Trains shall in every case be stopped at least three minutes, to ascertain from the Bridge Tender that the said Bridge is closed and in perfect order for passing, and in default of so stopping during the full period of three minutes the said Railway Company shall be subject to a fine or penalty of ~~£50~~ ^{£40} ~~Hundred Pounds~~ 16 V. c. 169, s. 6.

171.

171. Every Railway Company which runs trains upon the railway, for the conveyance of passengers shall provide and cause to be used in and upon such trains such known apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine-drivers of such trains while the trains are in motion, and good and sufficient means of applying by the power of the steam-engine or otherwise at the will of the engine-driver, or other person appointed to such duty, the brakes to the truck-wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender, and cars or carriages from each other by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, and shall alter such apparatus and arrangements or supply new apparatus and arrangements from time to time as the Board of Railway Commissioners, with the sanction of the Governor in Council, may order. 20 V. c. 12, s. 10.

Company to use the best apparatus for communication between conductors and engine drivers and for stopping or disconnecting cars, fixing seats in cars, &c.

172. Every Railway Company shall make such by-laws, rules and regulations, to be observed by the conductors, engine-drivers, and other officers and servants of the Company, and by all other Companies and persons using the Railway of such Company, and such regulations with regard to the construction of the carriages and other vehicles, to be used in such trains on the Railway of the Company, as are requisite for ensuring the employment and proper use of the aforesaid means of communication, application and disconnection. 20 V. c. 12, s. 10.

Companies to make By-laws for regulation of conductors and other officers, &c.

173. Every Railway Company which fails to comply with any of the provisions contained in the one hundred and seventy-first section of this Act, shall forfeit to Her Majesty a sum not exceeding Fifty Pounds, for every day during which such default continues. 20 V. c. 12, s. 10.

Penalty for not complying with this section.

\$ 200.

174. Every Railway Company shall, within ten days after the first days of January and July, in each and every year, make to the Board of Railway Commissioners, under the oath of the President, Secretary or Superintendent of the Company, a true and particular return of all accidents and casualties (whether to life or property) which have occurred on the Railway of the Company during the half year next preceding each of the said periods respectively, setting forth :

Return of accidents to be made semi-annually.

1. The causes and natures of such accidents and casualties ;
2. The points at which they occurred, and whether by night or by day ;
3. The full extent thereof, and all particulars of the same ;

4.

4. Shall also at the same time return a true copy of the existing By-laws of the Company, and of their rules and regulations for the management of the Company and of their Railway. 20 V. c. 12, s. 14.

Form to be appointed by the Board of Commissioners.

175. The Board of Railway Commissioners may order and direct from time to time, the form in which such returns shall be made up, and may order and direct any Railway Company to make up and deliver to them from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Board deem necessary and require for their information with a view to the public safety. 20 V. c. 12, s. 14.

Penalty for neglect.

2/ \$100.

176. If such returns so verified be not delivered within the respective times herein prescribed or within fourteen days after the same have been so required by the Board, every Company making default, shall forfeit to Her Majesty the sum of ~~twenty five pounds~~, for every day during which the Company neglects to deliver the same. 20 V. c. 12, s. 14.

Such returns to be privileged communications.

177. All such returns shall be privileged communications, and shall not be evidence in any Court whatsoever. 20 V. c. 12, s. 14.

26. BOARD OF RAILWAY COMMISSIONERS, THEIR DUTIES, &c.

Board of Commissioners constituted.

Minister of Finance

178. The Receiver General, the ~~Inspector General~~, the Commissioner and Assistant Commissioner of Public Works, and the Provincial Postmaster General, shall constitute a Board of Railway Commissioners; and each of the said Officers shall be a Member of the said Board by virtue of his office, and so long, and so long only as he holds the same; such one of the said Officers as the Members of the Board shall agree upon, shall be the Chairman and Official Organ of the Board, the Secretary of the Commissioners of Public Works shall be the Secretary of the said Board; and any report con- curred in by a majority of the Board, shall be deemed the report of the Board. 14, 15 V. c. 73, s. 17.

Duties of.

179. The Board of Railway Commissioners shall, in addition to their other powers and duties, have and discharge the powers and duties in this Act prescribed, and may from time to time appoint some fit and qualified person to be Secretary of the said Board in the stead of the Secretary of the Commis- sioners of Public Works. 20 V. c. 12, s. 1.

May appoint a Secretary.

?

25. RAILWAY INSPECTORS, THEIR DUTIES, &c.

180. The Governor in Council may appoint and authorize any proper person or persons not exceeding three in number whose duty it shall be from time to time to inspect all railways constructed or in course of construction, and every person so authorized may at all reasonable times, upon producing his authority if required, enter upon and examine the said railway and the stations, fences or gates, road crossings, cattle guards, works and buildings, and the engines, cars and carriages belonging thereto. 20 V. c. 12, s. 2. Railway Inspectors.
Duties of.
181. Every railway company and the officers and directors thereof shall afford to such inspector or inspectors every information and full and true explanations so far as may be in their power or knowledge on all matters inquired into by any such inspector or inspectors, and submit to such inspectors or inspectors all plans, specifications, drawings and documents relating to the construction or reconstruction, repair or state of repair of such railway or any portion thereof, whether a bridge, culvert or other part. 20 V. c. 12, s. 2. Companies to afford information to the Inspectors.
182. Any such Inspector shall have the right to use the telegraph wires and machinery in the offices of or under the control of any such railway company, for the purpose of communicating with any of the officers of the said company, or transmitting any order of any such inspector relating to such railway. 20 V. c. 12, s. 2. Inspectors may use telegraph wires; for what purposes.
183. The operators or officers employed in the telegraph offices of or under the control of the said Company, shall, without unnecessary delay, obey all orders of any such Inspector for effecting such communications and transmitting messages for the purpose aforesaid, and any such operator or officer refusing or neglecting so to do, shall forfeit for every such offence the sum of Ten Pounds. 20 V. c. 12, s. 2. Operators and others to obey their instructions.
184. The authority of any such Inspector shall be sufficiently evidenced by a paper in writing nominating him an Inspector of Railways or of any Railway in particular, signed by the Chairman of the said Board of Railway Commissioners and countersigned by the Secretary thereof. 20 V. c. 12, s. 2. Authority of Inspectors how proved.
185. When any bridge, culvert, viaduct, tunnel, fence, road crossing, or cattle guard, or any other portion of any railway constructed or in course of construction, or any locomotive, car or carriage used or for use on any Railway, has been condemned on the report of an Inspector or Inspectors, by the Board of Railway Commissioners, with the approval of the Governor in Council, or when any change or alteration therein or in any part thereof, or the substitution of any new bridge, culvert, viaduct or tunnel, or of any material for the said Railway, has been When any Railway bridge condemned by Commissioners and Inspectors, what to be done.

been required by the Board of Railway Commissioners, with the approval of the Governor in Council, the Company to which such Railway belongs, or the Company using, running or controlling the same, shall, after notice thereof in writing signed by the Chairman of the said Board and countersigned by the Secretary thereof, proceed to make good or remedy the defects in the said portions of the Railway, or in the locomotive, car or carriage which have been so condemned, or shall make such change, alteration or substitution hereinbefore referred to as has been required in manner aforesaid by the Board. 20 V. c. 12, 10 s. 8.

When Inspectors may forbid the running of trains, &c. **186.** If in the opinion of any such Railway Inspector, it is dangerous for trains or vehicles to pass over any particular Railway, or any portion of a Railway, until alterations, substitutions or repairs have been made thereon, or that any particular car, carriage or locomotive should be run or used, the said Inspector may forthwith forbid the running of any train or vehicle over any such Railway or portion of Railway, or the running or using of any such car, carriage or locomotive by delivering or causing to be delivered to the President, Managing Director, or Secretary or Superintendent of the Company owning, running, or using such Railway, or to any Officer having the management or control of the running of trains on such Railway, a notice in writing to that effect with his reasons therefor, in which he shall distinctly point out the defects or nature of the danger to be apprehended. 20 V. c. 12, s. 9.

When Commissioners may modify report of Inspectors. **187.** The said Inspector shall forthwith report the same to the said Board of Railway Commissioners, who, with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the Inspector, and such confirmation, modification or disallowance shall be duly notified to the Railway Company affected thereby. 20 V. c. 12, s. 9.

When the Commissioners may regulate speed, &c. **188.** The said Board of Railway Commissioners may, with the sanction of the Governor in Council, limit the number or times or rate of speed of running of trains or vehicles, upon such Railway or portion of Railway, until such alterations or repairs as they may think sufficient have been made, or until such time as they think prudent; and the Company owning, running or using such railway shall comply forthwith with any such Order of the said Inspector or of the said Board, upon notice thereof as aforesaid; and for every act of non-compliance therewith every such Railway Company shall forfeit to Her Majesty the sum of five hundred pounds. 20 V. c. 12, s. 9.

Penalty for non-compliance. **189.** Every Railway Company shall as soon as possible, and at least within forty-eight hours, after the occurrence upon the railway belonging to such Company of any accident attended with serious personal injury to any person using the same,

Notice of accidents to be given to the Commissioners.

\$ 2000

same, or whereby any bridge, culvert, viaduct or tunnel on or of the said Railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the Board of Railway Commissioners; and if any Company wilfully omits to give such notice, such Company shall forfeit to Her Majesty the sum of ~~Fifty Pounds~~ for every day during which the omission to give the same continues. 20 V. c. 12, s. 13.

\$ 200.

190. No inspection had under this Act nor any thing in this Act contained or done or ordered or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any Railway Company, or of from any liability or responsibility resting upon it by law either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or other personal representative of any person for any thing done or omitted to be done by such Company, or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance, of such Company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such Company under the existing laws of the Province. 20 V. c. 12, s. 17.

Inspection not to relieve Company from liability.

26. RAILWAY FUND.

191. From the twenty-seventh of May, one thousand eight hundred and fifty-seven, every Railway then or thereafter constructed, shall so soon as any portion thereof is in use, pay to the Receiver General an annual rate to be fixed by the Governor in Council, not exceeding ~~two pounds ten shillings~~ per mile of Railway constructed and in use; such rate to be paid half-yearly on the First days of January and July in each year, and to form a special fund for the purposes of this Act, to be called "The Railway Inspection Fund." 20 V. c. 12, s. 19.

Railway Inspection Fund.

\$ 10.-

27. CERTAIN SECTIONS LIMITED.

192. In the construction of the one hundred and fortieth to one hundred and fiftieth, the one hundred and fifty-fifth to one hundred and fifty-seventh, the one hundred and sixty-fifth to one hundred and seventy-seventh and the one hundred and seventy-ninth to one hundred and ninety-first sections of this Act, the expression "Railway Company" shall include any person being the owner or lessee of or contractor working any railway constructed or carried on under the powers of an Act of Parliament. 20 V. c. 12, s. 21.

What the words "Railway Company," shall include.

28. HOW PENALTIES RECOVERED AND APPLIED.

193. All penalties incurred under any of the sections of this Act in the last section referred to, except penalties under the

How penalties recovered and applied.

the one hundred and fifty-fifth section thereof, may be recovered in the name of Her Majesty, by Her Majesty's Attorney General in any Court having competent jurisdiction thereover; and all penalties-recovered under the other sections aforesaid, shall be paid to the Receiver General to the credit of "The Railway Inspection Fund." ~~1890-V.~~ c. 12, s. 20. 5

CAP.

CAP. LXVII.

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 :

- 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. Associations may be formed.
- 2. Such persons, under their hands and seals, shall make a Certificate which shall specify : 16 V. c. 10, s. 2. Certificate to be made and filed.
 - 1st. 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 ;
 - 2dly. 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 ;
 - 3dly. The period at which the Association is to commence and terminate ;
 - 4thly. A copy of the Articles of Association.
- 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.*
- 4. Upon complying with the provisions of the two last preceding sections, the Association shall be a Body Corporate by the name designated in the said Certificate. *Ibid.*, s. 3. Incorporation.
- 5. A copy of the Certificate, duly certified by the Provincial Secretary, may be used as evidence in all Courts and places for and against the Association. 16 V. c. 10, s. 3. Copy of certificate to be evidence.
- 6. Every such Association shall have power to purchase, take, hold and convey, such real estate and such only as may be necessary for the convenient transaction of the business and for the effectually carrying on the operations of the Association. 16 V. c. 10, s. 4. Corporate powers.

03-0012

Directors and Officers may be appointed.

7. Every such Association may appoint such Directors, Officers and Agents, and make such prudential Rules, Regulations and By-laws as may be necessary in the transaction of its business, not inconsistent with the laws of this Province. 16 V. c. 10, s. 4. 5

Powers for the construction of the line.

8. Each such Association may construct the lines of Telegraph designated in its Certificate, upon any lands purchased by the Association, or the right to carry their line over which has been conceded to them by the parties having a right to make such concession, and along any and upon any of the public roads and highways, or across any of the waters within this Province, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, provided the same are not so constructed as to incommode the public use of such roads or highways, or to impede the free access to any house or other building erected in the vicinity of the same, or injuriously to interrupt the navigation of such waters. 16 V. c. 10, s. 5. 10

9. Nothing herein contained shall confer on any such Association the right of building a bridge over any navigable water. 16 V. c. 10, s. 5. 15

Increase of Capital provided for.

10. Any Association of persons, incorporated under this Act, may by their Articles of Association, provide for an increase of their capital and of the number of their associates. 16 V. c. 10, s. 7. 25

Amount of debts limited.

11. No Association under this Act shall contract debts exceeding one half of the amount of its Capital Stock. 16 V. c. 10, s. 8.

President to sign all evidences of debt.

12. All evidences of debt issued by such Association shall be signed and issued by the President and Treasurer thereof. 16 V. c. 10, s. 8. 30

Certain Companies may avail themselves of this Act.

13. Any Telegraph Association or Company organized on or before the tenth day of November, one thousand eight hundred and fifty-two, on filing in the office of the Provincial Secretary a certificate authorized by a resolution of its Board of Directors, signed and certified by the Secretary of the Company, containing the particulars hereinbefore required in like cases, and signifying its acceptance of this Act, may become incorporated under this Act. 16 V. c. 10, s. 9. 35

Duties of Company in transmitting despatches.

14. The owner of, or the Association owning any Telegraph line in operation, at that time or since that period shall, except in cases provided for in the next section, transmit all despatches in the order in which they are received, under a penalty of not less than ~~four~~ nor exceeding ~~twenty-five pounds~~, to be recovered, with costs of suit, by the person or persons whose despatch has been postponed out of its order. 15. 40

500
\$100

15. Any Message in relation to the Administration of Justice, arrest of criminals, the discovery or prevention of crime, and Government Messages or Despatches, shall always be transmitted in preference to any other Message or despatch, if required by persons connected with the Administration of Justice, or any person thereunto authorized by the Provincial Secretary. 16 V. c. 10, s. 10.

What Messages entitled to preference.

16. Any Operator of a Telegraph Line, or any person employed by a Telegraph Company, divulging the contents of a private despatch, shall be guilty of a misdemeanor, and on conviction shall be liable to a fine not exceeding ~~twenty five pounds~~ or to imprisonment for a period not exceeding three months, or both, in the discretion of the Court before which the conviction is had. 16 V. c. 10, s. 11.

Penalty on operator divulging secrets.

\$ 100.

17. Her Majesty may at any time, assume and for any length of time retain possession of any such Telegraph line and of all things necessary to the sufficient working thereof, and may for the same time require the exclusive service of the Operators and other persons employed in working such line, and the Company shall give up possession thereof, and the operators and other persons so employed shall, during the time of such possession, diligently and faithfully obey such orders, and transmit and receive such despatches as they may be required to receive and transmit by any duly authorized Officer of the Provincial Government, under a penalty not exceeding ~~twenty five pounds~~ for any refusal or neglect to comply with the requirements of this section, to be recovered by the Crown for the public uses of the Province, with costs, in any way in which debts of like amount are recoverable by the Crown. 16 V. c. 10, s. 12.

Government may assume the same temporarily.

\$ 100.

18. Her Majesty may, at any time after the commencement of a Telegraph line under this Act, and after two months' notice to the Company, assume the possession and property thereof, and upon such assumption, such line and all the property, real or personal, essential to the working thereof, and all the rights and privileges of the Company, as regards such Line, shall be vested in the Crown. 16 V. c. 10, s. 13.

Her Majesty may assume the property of the line.

19. If any difference arises between the Company and those who act for the Crown, as to the compensation which ought to be paid to the Company, for any Telegraph Line and appurtenances taken under the eighteenth section of this Act, or for the temporary exclusive use thereof under the seventeenth section, such difference shall be referred to three Arbitrators, one to be appointed on the part of Crown, another by the Company, and the third by the two so appointed Arbitrators, and the award of any two of the said Arbitrators shall be final; and in case of refusal or neglect by the Company to appoint an Arbitrator on their behalf, or if the two Arbitrators cannot agree upon a third Arbitrator,

Mode of settling the compensation in case of difference of opinion.

Arbitrator, then such Arbitrator shall be appointed by any two Judges of the Queen's Bench or Common Pleas in Upper Canada, or of the Superior Court in Lower Canada, on application on the part of the Crown. 16 V. c. 10, s. 14.

Municipal Corporation and Joint Stock Companies may take Stock in Telegraph Companies.

20. Any Municipal Corporation in this Province, or any Joint Stock Company incorporated under an Act of the Parliament of this Province, may subscribe for and hold Stock in any Company formed under this Act, and may pay the amount of such subscription out of any Municipal or other funds not specially appropriated to any other purpose, and such Municipal Corporation may levy money by rate, for paying any such subscription; and shall have such rights as a Member of the Company, and shall vote upon the Stock held by it in such manner and by the intervention of such person or officer, as shall be determined by the Articles of Association. 16 V. c. 15 10, s. 15.

Penalty for malicious or other injuries to Telegraph works.

21. Any person who wilfully and maliciously cuts, breaks, molests, injures or destroys any instrument, cap, wire, post, line, pier, or abutment or the materials or property belonging thereto, or any other erection used for or by any line of electro-magnetic telegraph in operation in this Province under any Act in force herein, or who wilfully and maliciously in any way obstructs, disturbs or impedes the action, operation, or working of any such line of telegraph, shall on conviction thereof, be deemed guilty of a misdemeanor and be punished by a fine not exceeding ~~ten pounds~~ or imprisonment not exceeding one month, or both, at the discretion of the Court, before which the conviction is had. 16 V. c. 10, s. 6.—13, 14 V. c. 31.

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Jurisdiction of Justices of the Peace.

22. The jurisdiction over all offences against this Act shall be in any Justice of the Peace in any Parish, Village, City, Town or County where the offence has been committed, or in which the offender may be found, and the proceedings thereon shall be summary.

How penalties shall be enforced if not paid.

23. The fine imposed may, if not forthwith paid, be levied, with all costs of the prosecution by Warrant of Distress against and by sale of the goods and chattels of the offender, or such offender may, (in the discretion of the Magistrate) whether imprisoned be or be not part of the sentence, be imprisoned for a period not exceeding thirty days in addition to and after the expiration of any other imprisonment making part of his sentence, unless such fine and all expenses incurred in the prosecution be sooner paid; and all such fines, when collected, shall belong to the party aggrieved by and complaining of the offence, and be paid over to such party. 13, 14 V. c. 31.

CAP. LXVIII.

An Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.

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

1. Any number of persons not less than five may form themselves into a Company under the Provisions of this Act, for the purpose of acquiring or constructing and maintaining any dam, slide, pier, boom or other work necessary to facilitate the transmission of timber down any river or stream in this Province, and for the purpose of blasting rocks, or dredging or removing shoals or other impediments, or otherwise of improving the navigation of such streams for the said purpose. 18 V. c. 191, s. 1,—18 V. c. 84, s. 1.

Companies may be formed for the improvement of rivers and streams.
2. Each share in the Company shall be ~~Five pounds~~, and shall be regarded as personal property, and shall be transferable upon the books of the Company, in the manner provided by a By-law to be made by the Directors in that behalf. 16 V. c. 191, s. 8.

Shares to be £5 each and to be personal property. \$ 20.
3. No such Company shall construct any such works over or upon any other property or the property of the Crown, without first having obtained the consent of the owner, or occupier thereof, or of the Crown, except as hereinafter provided. 16 V. c. 191, s. 1.

Not to interfere with public or private property without the consent of the Crown or of the owners.
4. No such Company shall be formed under the provisions of this Act to improve any river or stream, for the improvement of which any other Company has been formed either under this Act or any other Act of the Legislature, or upon which there is constructed any Provincial work, without the consent of such other Company or of the Governor in Council respectively, which consent shall be formally expressed in writing, and shall be registered together with the instrument by which such Company has been incorporated as hereinafter provided. 18 V. c. 191, s. 1.

Not to interfere with other Companies or with public works without consent.
5. In case five or more persons having formed themselves into a Company under this Act, have subscribed stock to an amount adequate in their judgment to the construction of the intended work, they shall execute an instrument in duplicate according to the form in the Schedule to this Act; and the Company or one of their number, or the Directors named in the said instrument, shall pay to the Treasurer of the Company six per cent. upon the amount of the Capital Stock of the Company

Five or more having subscribed Stock, may execute an instrument.

Company mentioned in the said instrument, and shall register the instrument, together with a receipt from the Treasurer of the Company, for the payment or instalment of six per cent., and also the approval in writing of the Chief Commissioner of Public Works mentioned in the tenth section of this Act. 16 5
V. c. 191, s. 2 and 3.

How registration to be made.

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6. Registration shall be made by leaving one of the original Instruments and the receipt and approval aforesaid, with the Registrar of any one County in which the intended works are wholly or partly situated, or are intended to be made, and such Registrar shall copy the said instrument, receipt and approval into a book to be provided by him for that purpose, and shall afterwards retain and file the said original documents in his office, and for such registration the Registrar shall be entitled to charge the same fees as for the registration of the Memorial 15 of a Deed. *Ibid.*

Persons paying six per cent. per share in behalf of defaulters may recover the amount.

7. In all cases where a Stockholder has not paid six per cent. on the share or shares held by him, but some other party pays the same on his behalf, the party so paying may recover the amount as a debt, in any competent Court, although not 20 previously authorized to pay the money on behalf of such Stockholder. 16 V. c. 191, s. 2.

Before works commenced a report to be made to the Commissioners of Crown Lands and to the Municipal Councils.

8. Every Company before commencing any of the works in its contemplation, shall cause a Report to be laid before the Chief Commissioner of Public Works, and a copy of such 25 Report before the Municipal Council of the County in which such works are proposed to be situated; or if the works are situate in more than one County, then before the Municipal Councils of the Counties, in or on the boundaries of which such works are proposed to be situated; or if such proposed works 30 are in unsurveyed lands not contained within the bounds of any County, then before the Chief Commissioner of Public Works alone. *Ibid.*, s. 3.

Contents of report.

9. The report shall contain—

1. A copy of the instrument by which the Company is 35 incorporated;

2. A detailed description of the works to be undertaken, and an estimate of their cost;

3. An estimate from the best available sources, of the quantity of different kinds of timber expected to come down the river 40 yearly after the works have been completed, and

4. A Schedule of the tolls proposed to be collected.

10. The Company shall not commence any such works until the approval of the Chief Commissioner of Public Works has been signified in writing, nor until after the expiration of thirty days from the laying the Report or Reports aforesaid before the Municipal Council or Councils, (as the case may be,) altho' the approval of the Commissioner of Public Works has been signified in writing before the expiration of that period.
16 V. c. 191, s. 3,—18 V. c. 84, s. 2.

When works to be commenced.

11. When the requirements contained in the preceding sections have been complied with, the company shall become a Chartered and Incorporated Company, by the name designated in the instrument so to be registered as aforesaid; and by such name they and their successors shall be capable of purchasing, holding and conveying, selling and departing with any lands, tenements and hereditaments whatsoever, which may be useful and necessary for the purposes of the Corporation; and every such work as aforesaid, and all the materials from time to time provided for constructing, maintaining or repairing the same, shall be vested in such Company and their successors. 16 V. c. 191, s. 4.

When the Company to become chartered.

12. Every such Company may make By-laws, and from time to time alter and amend the same, for the purpose of regulating the safe and orderly transmission of timber over or through the works of the Company, and the navigation therewith connected.

By-laws may be made and altered.

13. Copies of such By-laws shall be annexed to the reports required to be made by the Company by the eighth and ninth sections of this Act, and copies of all new By-laws and of all amended By-laws shall be annexed to the annual reports required by the twenty-seventh section of this Act.

The By-laws shall accompany the reports.

14. No such By-law or amended By-law shall have any force until one month after it has been included in such report, but, if at the end of one month such By-law has not been disallowed as it may be by the Chief Commissioner of Public Works, it shall have full force and be binding upon the Company and upon all persons using the works.

When By-laws to come into force.

15. No such By-law shall impose any penalties or shall contain any thing contrary to the true meaning and intention of this Act. 16 V. c. 191, s. 5.

As to imposing penalties.

16. The affairs, stock, property and concerns of every such Company, shall, for the first year, be managed and conducted by five Directors, to be named in the instrument so to be registered as aforesaid, and thereafter to be annually elected by the Stockholders, on the second Monday of December, according to the provisions of a By-law to be passed by the Directors for that purpose.

Management of affairs for the first year.

By-laws to regulate elections.

17. Such Bylaw shall regulate—

1. The manner of voting ;

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2. The place and hour of meeting for the election of Directors, and of Candidates for the direction, and

3. Any other matters, except the day of election, which the Directors deem necessary to carry out the provisions of this and the last preceding section.

To be published.

18. Such By-law shall be published for three successive weeks in the newspaper, or one of the newspapers, nearest the place where the Directors of the Company usually meet for the transaction of business.

Also amended.

19. The Directors may alter, change or amend any such By-law, and such amended By-law shall be published in the manner above provided.

A failure to elect Directors provided for.

20. If the annual Election of Directors does not take place at the time appointed, the Company shall not thereby be dissolved, but the Directors for the time being, shall in that case continue to serve until another Election of Directors has been held.

When renewed, election to be held.

21. Another Election when necessary shall be held within one month after the time appointed by law, and at a time which shall be provided for by By-law to be passed by the Directors of the Company for that purpose. 16 V. c. 191, s. 6.

Who to be electors.

22. At any Election of Directors, each Stockholder shall be entitled to one vote for every share he holds in the Company, and upon which he is not in arrear on any call in respect thereof. 16 V. c. 191, s. 6.

Who qualified to be Directors.

23. Any person being a Stockholder and not in arrear as aforesaid, shall be eligible as a Director. 16 V. c. 191, s. 6.

Quorum.

24. A majority of the Directors shall be a *quorum* for the transaction of business.

A President to be elected by the Directors.

25. The Directors may elect one of their number to be the President, and may nominate and appoint such officers and servants as they deem necessary ; and in their discretion may take security from such officers and servants respectively for the due performance of their duties, and that they will duly account for all moneys coming into their hands to the use of the Company. 16 V. c. 191, s. 13.

26. If any vacancy happens amongst the Directors during the current year of their appointment, such vacancy shall be filled up for the remainder of the year by a person nominated by a majority of the remaining Directors, unless it is otherwise provided by some By-law or Regulation of the Company. 16 V. c. 191, s. 14. Vacancies in Directors how filled.

27. The Directors of every Company incorporated under this Act shall annually in the month of January report to the Chief Commissioner of Public Works, which Report shall be under the oath of the Treasurer of the Company, and shall specify— Directors to report yearly to the Commissioners of Public Works.

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1. The cost of the work ;
2. The amount of all money expended ;
3. The amount of the Capital Stock, and how much paid in ;
4. The whole amount of tolls expended on such work ;
5. The amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber ;
6. The amount of Dividends paid ;
7. The amount expended for repairs ; and
8. The amount of debts due by the Company, specifying the objects for which the debts respectively were incurred. 16 V. c. 191, s. 22.

What the report is to contain.

28. Every Company shall keep regular books of accounts, in which shall be entered a correct statement of the assets, receipts and disbursements of the Company, and such books shall be at all times open to the inspection and examination of any Stockholder or any person for that purpose appointed by the Chief Commissioner of Public Works, and every such Inspector may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the President and each of the Directors of the Company, and all the other officers and servants thereof, all such information as to such books, and the affairs of the Company generally, as the Inspector deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the Company, so as to enable such Inspector to ascertain whether the tolls levied upon such work are greater than this Act allows to be levied. 16 V. c. 191, s. 22. Every Company to keep regular books of accounts.

Provision for extending the works on capital.

29. If at any time after the formation of any such Company, the Directors are of opinion that it is desirable to alter, improve or extend the said work, or that the original capital subscribed will not be sufficient to complete the work contemplated the said Directors, under a Resolution to be passed by them for that purpose, may issue debentures, for sums not less than ~~Twenty five Pounds~~ each, signed by the President and countersigned by the Treasurer of the Company, and not exceeding in the whole one fourth of their paid-up Capital, or may borrow upon security of the Company, by bond or mortgage of the works and tolls thereon, a sufficient sum to complete the same, or may authorize the subscription of such number of additional shares as may be named in their Resolution, a copy whereof, under the hand of the President and seal of the Company, shall be engrossed at the head of the Subscription List to be opened for Subscribers, to the additional shares. 5

New shares to be registered and effect thereof.

30. When such a number of new shares have been subscribed as the Directors deem it desirable to have registered, the President shall deliver such new list of Subscribers to the Registrar having the custody of the Original Instrument, and he shall attach such new list of subscribers thereto, and such list shall thenceforth be held and taken to be part and parcel of the said Instrument. 20

Rights and liabilities of new subscribers.

31. All the Subscribers to such list, and those who afterwards enter their names as Subscribers thereon, with the consent of the Directors, signified by a resolution of the Board under the hand of the President and seal of the Company, shall be subject to all the liabilities and entitled to all the rights, benefits, privileges and advantages, of original Subscribers as well with respect to the first works undertaken as to any extension or alteration thereof as aforesaid, and such list and the Subscriptions thereon shall thenceforth be considered as part and parcel of the original undertaking. 25

How additional stock to be called in.

32. Such additional shares and stock shall be called in, demanded and recovered, in the same manner and under the same penalties as provided or authorized in respect of the original shares or stock of the Company. 16 V. c. 191, s. 7. 35

Directors may make calls not exceeding ten per cent. at any one time.

33. The Directors may call in and demand from the Stockholders of the Company respectively, all sums of money by them subscribed, at such time and in such payments or instalments not exceeding ten per cent. at any one time, as the Directors deem proper, upon notice requiring such payment, published for four successive weeks in the newspaper or one of the newspapers nearest the place where the Directors of the Company usually meet for the transaction of business. 40 45

If calls not paid—shares forfeited.

34. Any Shareholder neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two months after 45

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after the time appointed for the payment thereof, shall forfeit his shares, which forfeiture shall go to the Company for the benefit thereof.

35. No advantage shall be taken of the forfeiture, unless the stock is declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture has been incurred. Forfeiture to be declared, and at a general meeting.

36. Such a forfeiture shall be an indemnification to the Shareholder so forfeiting, against all actions, or prosecutions whatever, for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on such undertaking. 16 V. c. 191, s. 10. Such declaration to discharge the Shareholders.

37. The Company may, in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, and recover of or from any Stockholder in the Company, the amount of any call or calls of stock which such Stockholder has neglected to pay after public notice thereof for two weeks in the newspaper, or one of the newspapers, published nearest the place where the Directors of the Company usually meet for the transaction of business. 16 V. c. 191, s. 9. The Company may sue for calls after due notice.

38. In any suit by the Company, against a Stockholder, brought to recover the money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to aver that the defendant is the holder of one share or more (stating the number of shares) in the stock of the Company, and that he is indebted to the Company in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more (stating the number and amount of each of such calls) whereby an action hath accrued to the Company, by virtue of this Act. 16 V. c. 191, s. 11. Form of declaring for calls.

39. On the trial or hearing of any such suit, it shall be sufficient for the Company to prove that the defendant at the time of making the call, was a holder of one share or more in the undertaking (of which when there has been no transfer of the shares, proof of subscription to the original agreement to take stock shall be sufficient evidence to the amount subscribed), and to prove that such call was in fact made, and such notice thereof given as is required; whereupon, the Company shall be entitled to recover the amount due upon such call, with interest thereon, unless it appears that due notice of such call was not given, and it shall not be necessary for the Company to prove the appointment of the Directors who made the call, or any other matter whatever. 16 V. c. 191, s. 12. Proof to be given at the trial.

40. The oath of the Treasurer shall be deemed sufficient proof of such notice, and a copy thereof shall be filed in the office Treasurer's oath to be proof of notice.

office of the Clerk of the Court where the trial takes place. 16
V. c. 191, s. 9.

When matters respecting compensation to be submitted to arbitration.

41. If upon demand made by the Directors of the Company, the owner or occupier of any land, over, through or upon which the Company desires to construct any such work, or which would be flooded or otherwise interfered with, or upon which any power given by this Act to the Company is intended to be exercised, neglects or refuses to agree upon the price or amount of damages to be paid for, or for passing through or using such land, or for flooding or otherwise interfering with the same, and for appropriating the same to and for the use of the Company, or for the exercise of any such power as aforesaid, the Company may name one Arbitrator, and the owner or occupier of such land, may name another Arbitrator, and the said two Arbitrators may name a third, to arbitrate and determine upon the amount which the Company shall pay, before taking possession of such land or exercising such power, and the decision of any two of the said Arbitrators shall be final. 5 10 15

Arbitrators to consider advantages as well as disadvantages.

42. In ascertaining the amount aforesaid, due attention shall be had by the Arbitrators to the benefits which will accrue to the party demanding compensation, by the construction of the intended works. 20

Upon tender of the sum awarded, the Company entitled to a conveyance.

43. The Company may tender the sum awarded to the party claiming compensation, who shall thereupon be bound to execute a conveyance of the land to the Company, or such other document as may be requisite, and the Company after such tender, whether a conveyance or other document be executed or not, may enter upon and take possession of the land, to and for the uses of the Company, and may hold the same, or exercise such power as aforesaid, in the same manner as if a conveyance thereof or other document had been executed. 30
16 V. c. 191, s. 15.

When the Judge, &c., to name an arbitrator.

44. If any such owner or occupier neglects to name an Arbitrator for the space of twenty days, after having been notified so to do by the Company, or if the said two arbitrators do not within the space of twenty days after the appointment of such second Arbitrator agree upon a third Arbitrator, or if any one of the said Arbitrators refuses or neglects, within the space of ten days after his appointment, to take upon himself the duties thereby imposed, then, upon the application of the Company, or of the other party, the Judge of the County Court of the County in Upper Canada, or of the Circuit Court of the ~~District~~ in Lower Canada, within which the land lies, shall nominate a disinterested competent person, from any Township or Parish adjoining the township or Parish in which such land is situate, to act in the place of the Arbitrator so refusing or neglecting, and every Arbitrator so appointed by the Judge of the County Court, or Circuit Court, as the case may 35 40 45

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may be, shall hear and determine the matter to be submitted to him, with all convenient speed, after he has been so nominated as aforesaid; and any award made by a majority of the Arbitrators shall be as binding as if the three Arbitrators had concurred in and made the same. 16 V. c. 191, s. 15.—See 18 V. c. 84, s. 7.

45. In case any lands required by the Company for the purpose of any such work, or with regard to which any such power is to be exercised as aforesaid, are held or owned by any person, body politic, corporate or collegiate, whose residence is not within this Province or is unknown to the Company, or in case the title to any such lands is in dispute, or in case such lands are mortgaged, or in case the owner or owners of such lands are unknown, or unable to treat with the Company for the sale thereof, or the exercise of any such power as aforesaid by the Company, or to appoint Arbitrators as aforesaid, the Company may nominate and appoint one indifferent person and the Judge of the County Court or of the Circuit Court where such lands are situate, on the application of the Company, may nominate and appoint one other disinterested competent person from any Township or Parish adjoining the Township or Parish in which such lands are situate, who, together with one other person to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice, with one other person to be appointed by such Judge as aforesaid before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the Company shall pay to the party entitled to receive the same, for the said lands or damages as aforesaid, and the decision of a majority of such Arbitrators shall be binding.

How Company
to proceed in
the case of
lands of ab-
sentees.

16 V. c. 191, s. 16. — 18 V. c. 84.

46. When demanded the Company shall pay or cause to be paid to the several parties entitled to the same, the amount so awarded.

Amount of
award to be
paid on de-
mand.

47. A record of the award shall be made up and signed by the Arbitrators, or a majority of them, specifying the amount awarded and the costs of arbitration, which may be settled by the said Arbitrators, or a majority of them; and such record shall be deposited in the Registry Office of the County in or along which such lands are situate, and the Company may thereupon enter and take possession of such land to and for the uses of the Company, and may proceed with the construction of the works affecting the same.

A record of
the award to
be drawn up
and register-
ed.

48. The expenses of any Arbitration under this Act shall be paid by the Company, and by them deducted from the amount of the award on payment thereof to the parties entitled to receive the same, if the Company, before the appointment of their Arbitrator, had tendered an equal or greater sum than that

Costs of refer-
ence to be paid
by the Com-
pany, &c.

that awarded by the Arbitrators, otherwise such expenses shall be borne by the Company, and the Arbitrators shall specify in their award by which of the parties the said costs shall be paid. 16 V. c. 191, s. 16.

When lands taken to become the property of the Company.

49. All lands taken by the Company, for the purpose of any such work, and which have been purchased and paid for by the Company, in the manner hereinbefore provided, shall become the property of the Company, free from all mortgages, incumbrances and other charges. 16 V. c. 191, s. 16. 5

The case of Indian lands provided for.

50. If any such work be constructed upon or otherwise interferes with any tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any property belonging to them be taken, or any act be done under authority of this Act, occasioning damage to their properties or their possessions, compensation shall be made to them therefor, in the same manner as provided with respect to the property, possession or rights of other individuals; and whenever it is necessary for Arbitrators to be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department within the Province shall name an Arbitrator on behalf of the said Indians; and where the said lands belong to any tribe or body of Indians, the amount awarded shall be paid to the said Chief Officer, for the use of such tribe or body. 16 V. c. 191, s. 17. 10

Who to be arbitrators.

How arbitrators to proceed.

51. The Arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matter so brought before them, the said Arbitrators or a majority of them shall, within thirty days of their appointment, make their award or arbitrament thereupon in writing, which award or arbitrament shall be final as to the amount in dispute. 16 V. c. 191, s. 18. 25

If timber slides, &c., erected by others be assumed by the Company, how compensation to be made.

52. In case there be already established by any party other than a Company formed under this Act or some other Act of this Province, any slide, pier, boom, or other work, intended to facilitate the passage of timber down any water, for the improvement of which a Company is formed under this Act, such Company may take possession of the works, and the owners thereof or (if they have been constructed on the property of the Crown,) the persons at whose cost they have been constructed, may claim a compensation for the value of such works either in money or in stock of such Company, at the option of such owner or the person at whose cost the same was constructed, and may become Stockholders in the said Company for an amount equal to the value of such works, such value to be ascertained by Arbitrators appointed in the manner hereinbefore provided, and all the provisions of the 35
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the

the forty-fifth, to the forty-ninth sections of this Act shall apply to such work and the proprietors or possessors thereof in the same manner and to the same extent as to lands required by such Company and to the proprietors and occupiers thereof. 18 V. c. 84, s. 3, and 16 V. c. 191, ss. 19, 1.

53. And in case any such Company purchases or takes possession of such works as aforesaid, and does not make or construct any other works than those so acquired, it shall not be requisite for the Company to observe the formalities required by the eighth and ninth sections of this Act, excepting only that such Company shall furnish the Chief Commissioner of Public Works with the report and copy of report in the said sections mentioned. 18 V. c. 84, s. 6.

When the 8th and 9th sections need not be complied with.

54. Nothing herein contained shall authorize any Company formed under this Act to take possession of, or in any wise injure any mill site upon which there is existing any mills or machinery, or any hydraulic works other than those intended to facilitate the passage of timber; and no Company formed under this Act shall commence any work, which interferes with or endangers any such occupied mill site, without the assent in writing of the proprietor thereof previously obtained, or an award of Arbitrators appointed as herein provided, to the effect that the proposed works will not injure such mill site, which assent or award shall be registered in the same manner as the instrument of incorporation of such Company. 16 V. c. 191, s. 19.

Mill sites, &c., not to be taken without the consent of the owner.

55. The provisions of the seventeenth and eighteenth sections of the forty-seventh chapter of the consolidated statutes of Upper Canada, respecting mills and mill dams, shall extend to similar land in Upper Canada overflowed by any of the works constructed by any Company formed under this Act. 16 V. c. 191, s. 20.

The 17th and 18th sections of the U. C. Consolidated Act, chap. 47, to apply, &c.

56. Nothing herein contained shall authorize any Company formed under this Act to obstruct any waters already navigable, or to collect any tolls other than those upon timber.

Navigable waters not to be obstructed. Tolls on timber only.

57. If by reason of any dam erected by a Company formed under this Act, any fall or water power be created, the Company shall in no wise have any title or claim to the use of such water power; nevertheless, if the owner or occupier of the land adjoining has made a claim for compensation for damages arising from such dam, the Arbitrators may take into account the increased value of his property by reason of the water power so created. 16 V. c. 191, s. 21.

Rights of parties as to water-powers created by the Company.

58. The tolls for the first year shall be calculated upon the estimates hereinbefore required to be made of the cost of the works, and the quantity of different kinds of timber expected

Principle on which tolls to be calculated.

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to pass down the stream, and the tolls in all future years shall be calculated upon the cost of the works and the quantity of different kinds of timber expected to pass down the stream, and the receipts and expenditure, according to the accounts of the then next preceding year, as rendered in accordance with the provisions of the twenty-seventh and following sections of this Act; and the tolls shall be so calculated that, after defraying the necessary cost of maintaining and superintending the works and collecting the tolls, the balance of the receipts may as nearly as possible be equal and in no case exceed ~~Twenty~~ for every hundred expended and invested in the said works; and if in any year the receipts from tolls are such, that, after defraying all the current expenses, there remains a clear profit of more than Ten ~~Pounds~~ upon every hundred of the capital expended, there shall nevertheless be divided amongst the Shareholders no greater dividend than after the rate of Ten ~~Pounds~~ for every hundred, and the remainder shall be carried over to the receipts of the following year. 16 V. c. 191, s. 23.

\$10
dollars.
dollars

Ratio of tolls. **59.** The tolls to be collected upon different kinds of timber shall bear to each other the following proportions, viz: 16 V. c. 191, s. 24.

Red and White Pine.....	per piece.....	1d.	or 1/3
Oak, Elm and other hard wood	"	1 1/2	" 2/3
Spars.....	"	3	25 8/11
Masts	"	5	8/11
Saw Logs.....	"	1 1/2	5/11
			18 V. c. 84, s. 5.
Sawed Lumber per M. board measure.....		1	or 1/3
Staves per M.....		15	30
Firewood, shingle bolts, and other timber per cord,		2	3/3

The annual account to be rendered by the Company to contain a Schedule of tolls.

60. The annual account required to be rendered by every Company, shall contain a Schedule of the tolls, calculated as aforesaid, which it is proposed to collect in the following year, and if it has not been notified to the President of the Company on or before the fifteenth day of March in each year, that the Schedule of tolls has been disallowed by an order of the Chief Commissioner of Public Works, the President of the Company shall cause the said Schedule of tolls to be published for the space of one month in some newspaper published within the County or Counties, District or Districts in which, or nearest to which such works are situate, and such tolls so published shall be the lawful tolls for that year; but if it appears to the Chief Commissioner of Public Works, that the proposed Schedule of tolls has not been calculated according to the true intent and meaning of this Act, such Chief Commissioner, may, by an Instrument under his hand, alter or vary the said Schedule of tolls so as to make them correspond with the true meaning of this

this Act ; and such amended Schedule of tolls shall be notified to the President of the Company, and shall by him be published as aforesaid, and shall be the lawful tolls for that year. 16 V. c. 191, s. 25.

5 **61.** Every such Company may demand from the owner of any timber intended to be passed through any portion of the works of the Company, or from the person in charge of the same, a written statement of the quantity of each kind of timber and of the destination of the same, and of the sections of the works through which it is intended to pass, and if no such written statement is given when required or a false statement is given, the whole of such timber, or such part of it as has been omitted by a false statement, shall be liable to double toll.

Company may demand of owner statement of quantity of timber liable to toll.

15 **62.** Every such Company may demand and receive the lawful toll upon all timber which has come through or over any of the works of the Company ; and the Company, by its servants, shall have free access to all such timber for the purpose of measuring or counting the same.

On what timber toll may be taken. Right of Company to examine.

20 **63.** If the just tolls be not paid on demand, the Company may sue for the same in any Court of competent jurisdiction, and recover from the owner of the timber the amount of the tolls and the costs of suit.

May sue for tolls.

25 **64.** If the owner of the timber objects to the amount of tolls demanded, and tenders a sum which he claims to be the true and just amount of the tolls, the Company shall pay the costs of the suit, unless the judgment obtained is for a greater amount than the sum so tendered 16 V. c. 191, s. 26.

If full toll tendered, Company liable to costs.

30 **65.** If timber has not come through or over the whole of the works of the Company, but only through or over a part thereof, the owner of the timber shall only be liable to pay tolls for such sections of the whole works as he has made use of, if in the Schedule of tolls the work is divided into sections, and if not, then to pay such a portion of the whole toll as the distance such timber has come through the works, bears to the whole distance, over which such works extend. 16 V. c. 191, s. 26.

Toll to be apportioned to the extent of the works used.

35 **66.** If the true owner of any timber which has passed through any of the works of the Company cannot be ascertained, or if there be reasonable grounds to apprehend that the tolls thereon have not been paid by the owner or reputed owner or person in charge, any Mayor, Reeve or Justice of the Peace, having jurisdiction within the locality, through or adjoining which such navigation extends, or where the timber may be found, if within twenty miles of any such works, shall, upon the oath of any Director or servant of the Company that the just tolls have not been paid, issue a Warrant for

When and how timber may be seized for tolls.

for the seizure of such Timber, or so much thereof as will be sufficient to satisfy the tolls, which Warrant shall be directed to any Constable or any person sworn in as a Special Constable for that purpose, at the discretion of the Magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date thereof, to sell the said timber, and out of the proceeds to pay to the Company the just tolls, together with the costs of the Warrant and sale, rendering the surplus on demand to the owner. 16 V. c. 191, s. 27. 10

Penal consequences of malicious injuries.

67. If any person wilfully and maliciously burns, breaks down, injures, cuts, removes or destroys in whole or in part any dam, pier, slide, boom or other work of any such Company, or any chain or other fastening attached thereto, or wilfully and maliciously impedes or blocks up any channel or passage intended for the transmission of timber, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by fine and imprisonment in the Common Gaol for any term not exceeding one year, at the discretion of the Court before whom the offender is convicted. 16 V. c. 191, s. 28. 15 20

Or of impeding the operation of the Company.

68. If any person resists or impedes any of the servants of any such Company, in the transmission of any timber through any such works, or in carrying out any regulations of the Company for the greater safety and regularity of such transmission, or resists any such servants who may require access to any raft or other timber to ascertain the just tolls thereon, or in any way molests such Company or its servants in the exercise of any rights secured to them by this Act, such person shall, upon conviction thereof in a summary way before a Justice of the peace having jurisdiction in the locality in or adjoining which the offence has been committed, be sentenced to pay a fine of not more than ~~five~~ ~~shillings~~ nor less than ~~five~~ shillings, together with all costs, to be paid within a time to be limited by the said Justice, and in default to be levied as next hereinafter provided. 16 V. c. 191, s. 29. 25 30 35

How J. Ps. to proceed in prosecutions under this Act.

69. In any proceeding or prosecution before any Justice of the Peace under this Act, the Justice may summon the party complained against to appear at a time and place to be named in the summons, and if he does not appear accordingly, then upon proof of the due service of the Summons upon such party either personally or by leaving a copy thereof at his usual place of abode, or with any adult person belonging to the raft to which such party is attached, the Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending and bringing such party before himself or some other Justice of the Peace, or the Justice may, without previous Summons, issue such Warrant, and the Justice before whom the parties appear or are brought shall proceed to hear and determine the case. 16 V. c. 191, s. 30. 40 45 50 55 60 65 70

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70. The fines and forfeitures authorized to be summarily imposed by this Act may be recovered upon information and complaint before any Justice of the Peace of the County within which the same have been incurred, and shall be levied and collected by distress and sale of the offender's goods and chattels, under the authority of a Warrant of Distress for that purpose, to be issued by the Justice before whom the conviction has been had. How fines, &c., recoverable.

71. In case there are no goods or chattels to satisfy such Warrant, the offender shall be committed to the Common Gaol of the District or County for any period not exceeding one month; but this Section shall not prevent the issuing of a Warrant of Commitment in the first instance, upon a conviction for any offence mentioned in the sixty-seventh Section of this Act. If no Goods, offender to be imprisoned. 16 V. c. 191, s. 31.

72. All fines and forfeitures collected under the authority of this Act shall be paid to the Treasurer of the Company, owning the work in respect of which such fines and forfeitures have been imposed, for the use of such Companies respectively. Fines, &c., to be paid to the Treasurer of the Company. 16 V. c. 191, s. 32.

73. In any action or suit brought by or against any such Company, upon any contract or for any matter or thing whatsoever, any Stockholder, or any officer or servant of the Company, shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest, or of his being such servant or officer. Officers and servants to be competent witnesses. 16 V. c. 191, s. 33.

74. If any suit be brought against any person for any matter or thing done in pursuance of this Act, such suit shall be brought within six months next after the fact committed, and not afterwards, and the defendant therein may plead the general issue only, and give this Act and the special matter in evidence on the trial. Limitation of actions. 16 V. c. 191, s. 34.

75. Every such Company shall, within two years from the day of their becoming incorporated, complete each and every work undertaken by them, and for the completion whereof they may be incorporated, in default whereof they shall forfeit all the corporate and other powers and authority which they have in the meantime acquired, and all their corporate powers shall thenceforth cease and determine, unless further time be granted by a By-law of the County or Counties, District or Districts in or adjoining which the work is situate; and if any Company formed under this Act, for the space of one year abandons any works completed by them, so that the same are not in sufficient repair and cannot be used for the purpose proposed in their Instrument of Incorporation, then their corporate powers shall cease and determine. Within what time works to be completed, &c. 16 V. c. 191, s. 35.

Works to be kept in good repair.

76. After any works constructed by a Company under this Act have been completed and tolls established, the Company shall keep the same in good and sufficient repair; and if any such works have not been constructed according to the description given thereof in the report required by the ninth Section of this Act, or have become insufficient or out of repair, any person interested in the navigation may serve upon any servant of the Company a notice of such insufficiency, and if within a reasonable time after the service of such notice the necessary repairs have not been completed, such Company shall be liable for the damage which any person may sustain from the continuance of such insufficiency: but no Company formed under this Act shall be held liable for any damage, so long as their works are in accordance with the description or specification thereof in the original Instrument required to be registered, or in any description or specification subsequently approved of and registered, nor for any damage arising from the accidental destruction or injury of their works, but only for the damage which may arise from the wilful neglect of the Company after notice served upon one of its servants as hereinbefore provided. 16 V. c. 191, s. 36.

When Companies may be united.

77. Any two Companies formed for the construction of works on any streams contiguous to each other, may unite and form one Consolidated Company, on such terms as to them seem meet; and the name of such united Companies to be then assumed, shall thenceforth be the corporate name thereof, and such united Companies may then exercise and enjoy all the rights, and shall be subject to all the liabilities of other Companies formed under the provisions of this Act, and which the separate Companies had and enjoyed or were subject or liable to before the union thereof. 16 V. c. 191, s. 37.

The Legislature may alter this Act at discretion.

78. Notwithstanding the privileges conferred by this Act, the Legislature may at any time in their discretion, make such additions to this Act, or such alterations of any of its provisions as they may think proper for affording just protection to the public, or to any person or body corporate or politic, in respect to their estate, property, right or interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way that may be affected by any of the powers given to any such Corporation.

When the Governor in Council may declare a Company dissolved.

79. Whenever it is found expedient for the public service, the Governor in Council may declare any Company formed under this Act dissolved, and may declare all the works of any such Company, Provincial Works, upon payment to such Company of the then actual value of the works, to be decided by Arbitrators, one of whom shall be appointed by the Chief Commissioner of Public Works, and one by the Company, and if they do not agree to an award, the Judge of the County Court

Court for the County in Upper Canada or the Judge of the Circuit Court in Lower Canada in or adjoining which the works are situated, shall be the third Arbitrator. 16 V. c. 191, s. 38.

for the Circuit

80. In every case where any lands or works in Lower Canada have been acquired or purchased, or taken possession of under the provisions of this Act, and when the Company purchasing or taking possession of such lands or works, have cause to believe that the occupier or person in possession of such lands or works is not the legal owner thereof, or that such lands or works are already mortgaged or hypothecated, the Company shall not be bound to pay the amount of the purchase money or of the award provided for by this Act to the occupier thereof, but may deposit in the hands of the Prothonotary of the District in which such lands or works are situated, the purchase money of such land or works, or the amount awarded therefor, together with their deed of purchase or award, as the case may be, and may proceed to obtain a ratification by the Superior Court sitting in such District, of such deed of purchase or award, in the manner practised for the ratification of title deeds.

How Company to proceed in L. C. when title to lands taken is doubtful.

81. The real proprietor of such land or works, and all others having claims in or upon the same may intervene in such proceeding and claim and obtain the purchase money or amount awarded for such lands or works, or their due share thereof, and the Court may grant such ratification, and upon the ratification the Company shall become and be the legal and indefeasible proprietor of the land or works, free and clear of all claims, charges and incumbrances whatsoever, and the money so deposited shall stand in lieu of such land or work, and in case of substitution or where minors or interdicted parties are interested, the Court may make such order as seems meet for the protection of the parties entitled to the same. 18 V. c. 84, s. 4.

Real owner may intervene,

SCHEDULE.

Be it remembered, that on this _____ day of _____ in the year of our Lord, one thousand eight hundred and _____, we, the undersigned Stockholders, met at _____ in the County of _____ in the Province of Canada, and resolved to form ourselves into a Company, to be called (here insert the corporate name intended to be taken by the Company) according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act, &c.*, (insert the title of this Act) for the purpose of constructing a slide, wharf, pier, (or other such work as aforesaid, describing the nature, extent and

dollars
Twenty dollars.

S/

and situation thereof,) and we do hereby declare that the Capital Stock of the said Company shall be ~~Pounds~~ ^{dollars} to be divided into _____ shares, at the price or sum of ~~Five Pounds~~ each; and we, the undersigned Stockholders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act and of the Rules and Regulations, Resolutions and By-laws of the said Company, to be made or passed in that behalf; and we do hereby nominate *(the names to be here inserted)* to be the first Director of the said Company.

Names.	Number of Shares	Amount.

CAP.

C A P . L X I X .

An Act respecting payment of dividends by Insurance Companies.

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

1. If the Managers, Directors or Trustees, of any Fire, Life, Marine, or other Assurance Company, incorporated by the Legislature of Canada, or of Upper Canada or of Lower Canada, knowingly and wilfully declare and pay any dividend or bonus out of the paid up capital of the Company, or when the Company is insolvent, or which would render it insolvent, or which would diminish the amount of its Capital Stock, such Managers, Directors or Trustees who are present when such dividend or bonus is declared and which said dividend is afterwards paid, shall be jointly and severally liable for all the debts of the Company then existing, and for all thereafter contracted while such Managers, Directors or Trustees, respectively continue in office ; But if any of them object to the declaration of such dividend or bonus, or to the payment thereof, file a written statement of such objection in the Office of the Company, and also in the Registry Office of the City, Town or County where the Company is situated, such Managers, Directors or Trustees shall be exempt from such liability. 19, 20 V. c. 89.

Liability of managers, &c. paying dividends of such Companies which impair their Capital Stock.

How such managers may free themselves from liability.

C A P . L X X .

An Act respecting the Seizure and Sale of Shares in
the Capital Stock of Incorporated Companies.

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

Shares and
dividends of
Shareholders,
&c., liable to
seizure, &c.

1. All shares and Dividends of Stockholders in Incorporated
Companies shall be held, considered and adjudged to be per-
sonal property, and shall be liable as such to *bond fide* creditors
for debts, and may be attached, seized and sold under Writs of
Execution issued out of any of Her Majesty's Courts in this
Province, in like manner as other personal property may be
sold under execution. 12 V. c. 23, s. 1.

Mode of pro-
ceeding to
such sale.

2. Whenever any such share has been sold under a Writ
of Execution, the Sheriff, by whom the Writ has been
executed, shall, within ten days after such sale, serve upon
the Incorporated Company, at some place where service
of process upon such Company may be made, an Attested
Copy of such Writ of Execution, with his Certificate endorsed
thereon, certifying to whom the sale of such Share has been
by him made, and the person who has purchased the same,
and the person so purchasing shall thereafter be a Stockholder
or Stockholders of the said Shares, and shall have the same
rights, and be under the same obligations as if he had pur-
chased the said Shares from the proprietor thereof, in such
form as may be by law provided for the transfer of Stock in
such Company ; and the proper Officer of the Company shall
enter such sale as a transfer in the manner by law provided.
12 V. c. 23, s. 1.

Sheriff to
serve a copy
of the Writ
on the Com-
pany with
notice of
seizure.

Stock not to
be transferred
while under
seizure and
sale under
seizure to
include all
dividends, &c.

3. The Sheriff to whom any such Writ of Execution, as
aforesaid, is addressed, on being informed on behalf of the
Plaintiff that the Defendant has Stock in an Incorporated
Company, and on being required to seize such Stock shall
forthwith serve a copy of the Writ on such Company with
a notice that all the Shares which the Defendant may have
in the Stock of such Company are seized accordingly ; and
from the time of such service no transfer of such Stock by
the Defendant shall be valid, unless or until the said seizure
has been discharged ; and every such seizure, and any sale
made under the same, shall include all Dividends, Premiums,
Bonuses, or other pecuniary profits upon the Shares seized, and
the same shall not after such notice as aforesaid, be paid by such
Company to any party, except the party to whom the Shares
have been sold by the Sheriff, unless and until the seizure be
discharged, on pain of paying the same twice. 12 V. c. 23,
s. 2.

4. If the Company has more than one place where service of process may legally be made upon them, and there be some place where transfers of Stock may be notified to and entered by the Company so as to be valid as regards the Company, or where any Dividends or Profits as aforesaid, on Stock may be paid other than the place where service of such notice has been made, such notice shall not affect any transfer or payment of Dividends or Profits duly made and entered at any such other place, so as to subject the Company to pay twice, or to affect the rights of any *bond fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of such service by Post from the place where it has been made to such other place, which notice it shall be the business of the Company to transmit by Post to such other place. 12 V. c. 23, s. 3.

Provision for the case of the Company having more than one place where service of process may be legally made upon them.

5. The Shares in the Stock of any Company shall be held to be personal property, found by the Sheriff in the place where notice of the seizure thereof may be made as aforesaid. 12 V. c. 23, s. 4.

Shares to be personal property at the place where found by the Sheriff.

6. Nothing in this Act shall be construed to weaken the effect of any remedy which such Plaintiff, as aforesaid, might, without this Act, have had against any Shares of such Stock as aforesaid, by *saisie arrêt*, attachment or otherwise, but on the contrary, the provisions of the three next preceding sections shall apply to such remedy in so far as they can be applied thereto. 12 V. c. 23, s. 5.

Saving of all remedies at Common Law.

7. All Corporations, established for purposes of trade or profit, or for the construction of any work, or for any purpose from which revenue is intended to be derived, shall be deemed Incorporated Companies for the purposes of this Act, although they are not called Companies in the Act or Charter incorporating them. 12 V. c. 23, s. 6.

What shall be deemed incorporated Companies.

TITLE 6.

BENEVOLENT ASSOCIATIONS, &c.

CAP. LX XI.

An Act respecting Charitable, Philanthropic and Provident Associations.

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

- Any number of persons may unite and form Charitable Associations, &c. **1.** Any number of persons may unite themselves into a Society for making provision, by means of contributions, subscriptions, donations or otherwise, against sickness, unavoidable misfortune or death, and for relieving the widows and orphan children of members deceased. 13, 14 V. c. 32, s. 1. 5
- To have a seal, &c. **2.** The members and officers of such Society may, from time to time, establish and maintain any number of branches thereof, to promote the objects herein set forth. 13, 14 V. c. 32, s. 1. 10
- May sue and be sued, &c. **3.** Each Society shall have a common seal, and may change and alter the same at their will and pleasure, and by whatever name, designation, number or description the Society is known, shall have continued succession, and may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, in all Courts and places and in all actions, suits, complaints, matters and causes whatsoever. 13, 14 V. c. 32, s. 3. 15
- May elect officers and make by-laws. **4.** The Members of such Societies respectively may nominate, choose and appoint proper persons as Trustees, Treasurers, Secretaries or other Officers, for conducting the business, discipline and management of the Society, and may meet together from time to time to make, alter, rescind or frame by-laws, rules or regulations for the necessary government of, and for conducting the business of the Society or any branches thereof. 13, 14 V. c. 32, s. 2. 20
- As to the objects of the Association. **5.** Such by-laws, rules and regulations shall not contain any thing in violation of the laws, statutes or customs of this Province, or be directed to the furtherance of any political or seditious object whatsoever. 13, 14 V. c. 32, s. 2. 25
- May take security from their officers. **6.** Such Societies may require the Officers, Secretaries, Treasurers and Trustees thereof, to give security for all such sums of money, or other the property of the Society, as may from time to time be placed in their hands or under their control 30

control in trust for and on behalf of the objects of the Society, and all such securities being in writing, shall be deemed good security and admissible as evidence in any of Her Majesty's Courts of Civil and Criminal Jurisdiction. 13, 14 V. c. 32, s. 4.

7. The members of each of such Societies or bodies in its locality, in the name of the Society, or in the name of the Presiding, or other Officer or Officers thereof, may acquire and take, by purchase, donation, devise or otherwise, and hold for the use of the Members of the Society, and according to the rules and regulations thereof, all kinds of personal and also real property in this Province not exceeding five acres, and may sell and alienate the same, and may purchase and acquire in the stead and place thereof any other real estate, not exceeding the quantity before mentioned. 13, 14 V. c. 32, s. 3.

May acquire property to a certain extent and alienate the same.

8. If any Officer, Secretary, Treasurer, Trustee or Member of any such Society obtains undue possession of, misappropriates, embezzles or withholds from the other Members, Officers or other persons entitled to demand and receive the same, the whole or any portion of the funds, moneys, or other property of the Society, and continues to withhold such property after due demand has been made for the restoration and payment of the same by some one or more of the Members or Officers duly appointed by and on behalf of the Body or Society, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall at the discretion of the Court, be imprisoned at hard labour in the Penitentiary for any term not exceeding three 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. 13, 14 V. c. 32, s. 5.

Punishment of officers and members embezzling funds &c.

9. The printed or written Rules of such Society in force for the time being, and the appointment of any Officer, Secretary, Treasurer, Trustee, or enrolment of any Member, certified under the hand of the Presiding Officer for the time being and the Seal of the Society, and the Books, Minutes and other documents of the Society, relative to any portion of the matter then in question, may be received in evidence in any proceedings in any Court of Civil, or Criminal Jurisdiction against any of the parties mentioned in the last preceding section charged with the offence therein stated. 13, 14 V. c. 32, s. 6.

What to be evidence.

10. No Member of any such Society shall, in his individual capacity be liable for any debt or liability of the Society. 13, 14 V. c. 32, s. 7.

Non-liability of members.

C A P . L X X I I .

An Act respecting Library Associations and Mechanics Institutes.

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

\$100.

Mechanics' Institutes and Library Associations.

1. Any number of persons, not less than ten, having subscribed, or holding together not less than ~~Twenty Five Dollars~~ ⁵ in money or money's worth, for the use of their intended Institution, may make and sign a Declaration (in duplicate) of their intention to establish a Library Association or a Mechanics' Institute, or both, (as the case may be,) at some place to be named in such Declaration, in which they shall also state:

Name.

- 1. The Corporate name of the Institution;
- 2. Its purpose;
- 3. The amount of money or money's worth subscribed by them respectively, or held by them for the use thereof;
- 4. The names of those who are to be the first Trustees for managing its affairs, and;
- 5. The mode in which their successors are to be appointed, or new Members of the Corporation admitted, or in which By-laws are to be made for such appointment or admission, or for any other purpose, or for all purposes, and;
- 6. Generally such other particulars and provisions as they may think necessary, not being contrary to this Act or to Law. 14, 15 V. c. 86, s. 1.

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Duplicate declarations how disposed of.

2. One duplicate of such Declaration shall be filed in the Office of the Registrar of Deeds for the County by one of the subscribing parties, who shall, before such Registrar, acknowledge the execution thereof by himself, and declare the same to have been executed by the other parties thereto, either in person or by their Attorneys. 14, 15 V. c. 86, s. 1. 30

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The Registrar to file one and deliver the other.

3. The Registrar shall keep the duplicate so filed, and deliver the other to the person who filed it, with a Certificate of the same having been so filed, and of the execution having been attested before him, and such duplicate, or any copy thereof certified by such Registrar, shall be prima facie evidence of the facts alleged in such Declaration and Certificate. 14, 15 V. c. 86, s. 1. 4.

4. When the formalities aforesaid have been complied with, the persons who signed such Declaration, or the Directors, Trustees or the Office Bearers and Committee for the time being, of any such Institution or United Institutions, and their successors, shall be a body corporate and politic, and shall have the powers, rights and immunities, vested in such bodies under the Interpretation Act and by Law, with power to such Corporation, in their corporate name, from time to time, to acquire and hold, to them and to their successors, for the uses of such Corporation, any messuages, lands, tenements or hereditaments, situate within this Province. 14, 15 V. c. 86, s. 2.

When to become incorporated.

5. In case of a Mechanics' Institute or Library Association (or both united) established or in existence, when this Act takes effect, the Directors, Trustees or the Office Bearers and Committee thereof, for the time being, may make and sign a Declaration, of their wish or determination to become incorporated, according to the provisions of this Act, stating in such Declaration the Corporate name to be assumed by such Institution or United Institutions,—and also with such Declaration, file in the manner hereinbefore provided, a copy of the Constitution and By-laws of such Institution or United Institutions, together with a general statement of the nature and amount of all the property, real or personal, held by or in trust for such Institution or United Institutions. 14, 15 V. c. 86, s. 1.

What existing Institutions may do.

6. Any Library Association or Mechanics' Institute duly incorporated, and situate in any town or city having three thousand inhabitants or more, may hold real property not exceeding in annual value the sum of ~~five hundred pounds~~. 19 V. c. 51, s. 1.

May hold lands to the value of £500 yearly.

\$ 2,000

7. Any Library Association or Mechanics' Institute duly incorporated, and situate in any village or town not having three thousand inhabitants, may hold real property not exceeding in annual value the sum of ~~two hundred and fifty pounds~~. 19 V. c. 51, s. 1.

When limited to £250 yearly.

\$ 1,000

8. In cases not mentioned in the two next preceding Sections of this Act, the yearly value of real property to be held by any such Corporation, shall never exceed ~~one hundred pounds~~. 14, 15 V. c. 86, s. 2.

When to £100.

\$ 400

9. The affairs of every such Corporation shall be managed by the Directors or Trustees thereof for the time being, appointed as hereinafter, or by any By-law of the Corporation provided, who, or a majority of whom, may exercise all the powers of the Corporation, and act in its name and on its behalf, and use its Seal, subject always to any provisions limiting the exercise

Directors and Trustees.

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exercise of such powers in the Declaration aforesaid, or in any By-law of the Corporation. 14, 15 V. c. 86, s. 3.

By-laws. **10.** Such Trustees, or a majority of them, may make By-laws binding the Members and Officers thereof, and all others who agree to be bound by them, for all purposes relative to the affairs and business of the Corporation, except as to matters touching which it is provided by the Declaration, that By-laws shall be made in some other manner. 14, 15 V. c. 86, s. 3.

Officers. **11.** The Members of every such Corporation may, at their Annual Meeting, to be held on the day appointed by a By-law of the Corporation, choose from among themselves a President, and may appoint (except it be otherwise provided in the Declaration or By-laws) a Librarian, Treasurer, Secretary, Lecturer, and such other Officers and servants of the Corporation as they think necessary, and fix and pay their remuneration; and may also choose a Board of Directors or Trustees of such Corporation, who shall hold office for one year, or such further time as may be hereinafter limited or permitted. 14, 15 V. c. 86, s. 4.

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Failure to elect provided for. **12.** A failure to elect Trustees on any day appointed for that purpose by the Declaration, or by any By-law, shall not operate the dissolution of the Corporation, but the Trustees then in office shall remain in office until their successors are elected, which they may be (if no other provision be made therefor by the Declaration or By-laws) at any Meeting of the Members of the Corporation at which a majority of such Members are present, in whatever way such Meeting may have been called. 14, 15 V. c. 86, s. 5.

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What fines may be imposed. **13.** Every such Corporation may by its By-laws impose a fine not exceeding ~~One Pound~~, on any Member contravening the same, or on any person not being a Member of the Corporation, who has in writing agreed to obey the By-law for the contravention whereof it is imposed. 14, 15 V. c. 86, s. 6.

How enforced. **14.** Any such fine, if incurred, and any subscription or other sum of money which any Member or other person may have agreed to pay to the Corporation, for his subscription to the funds of the Corporation for any certain time, or for the loan of any book or instrument, or for the right of entry to the rooms of the Corporation, or of attending any lectures, or for any other privilege or advantage afforded him by such Corporation, may be recovered by the Corporation by action in any Court having jurisdiction in civil matters to the amount, on allegation, and proof of the signature of defendant to some writing by which he has undertaken to pay such subscription, or to obey such By-law, and of the breach of such undertaking, which breach as regards a promise to pay any sum of money shall be presumed.

presumed until the contrary is shewn, and as regards the contravention of any such By-law, may be proved by the oath of any one credible witness. 14, 15 V. c. 86, s. 6.

15. In any action to which the Corporation may be a party, any Member or Officer of the Corporation shall be a competent witness, and a copy of any By-law bearing the signature of the defendant, or bearing the Seal of the Corporation, and the signature of some person purporting to have affixed such Seal by authority of the Corporation, shall be *primâ facie* evidence of such By-law. 14, 15 V. c. 86, s. 6. Witnesses.

16. Any fine incurred may be recovered in like manner as a subscription or other sum of money, and all fines so recovered shall belong to the Corporation for the use thereof. 14, 15 V. c. 86, s. 6. Application of fines.

17. Any such Corporation may, if so stated in the Declaration, be at the same time a Mechanics' Institute and a Library Association, or either of them, and their business shall accordingly be the ordinary and usual business of a Mechanics' Institute or of a Library Association, or both, as the case may be, and no other, but may embrace all things necessary and useful for the proper and convenient carrying on of such business; and their funds and property shall be appropriated and used for purposes legitimately appertaining to such business, and for no other. 14, 15 V. c. 86, s. 7. Institutions may be joint.

18. If it be provided in the Declaration, or by the By-laws of the Corporation that the shares of the Members, or of any class of Members, in the property of the Corporation, shall be transferable, then they shall be transferable accordingly, in the way, and subject to the conditions, mentioned in the Declaration, or in the By-laws of the Corporation, if by such Declaration such transfers are to be regulated by them. 14, 15 V. c. 86, s. 8. When shares transferable.

19. All such shares shall be personal property, and by the Declaration or By-laws provision may be made for the forfeiture of the shares in cases to be therein named, or for preventing the transfer thereof to others than persons of some certain description, or resident within some certain locality. 14, 15 V. c. 86, s. 8. Shares to be personal property.

20. Provision for the dissolution of such Corporation may be made by the Declaration, or it may be therein provided, that such provision may be made by the By-laws of the Corporation; but no such dissolution shall take place until the liabilities of the Corporation are discharged. 14, 15 V. c. 86, s. 9. Dissolution provided for,

21.

This Act limited in its application to 30th August, 1851, and since.

21. This Act shall extend to all Mechanics Institutes or Library Associations incorporated since the thirtieth of August, one thousand eight hundred and fifty-one, but shall not be held in any way to affect or extend to any Mechanics Institute or Library Association incorporated before that day. 14, 15 V. 5
c. 86, s. 10.

C A P.

C A P . L X X I I I .

An Act respecting Private Lunatic Asylums.

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

1. The Justices assigned to keep the peace in any District in Lower Canada, or County in Upper Canada, assembled in General or Quarter Sessions, may, (if and when they think fit) grant a license to any person to keep a house for the reception of Lunatics, or of any sex or class of Lunatics within such District or County. 14, 15 V. c. 84, s. 1. Private Asylums may be licensed and by whom.
2. The Justices shall at the first General or Quarter Sessions in every year, after they have granted any such license or licenses, and while one or more of those granted by them remain in force, appoint three or more Justices, and also one Physician or more, to act as Visitors of every house licensed for the reception of Lunatics within such District or County. 14, 15 V. c. 84, s. 1. Visitors.
3. Such Visitors shall at their first meeting take an oath, to be administered by a Justice of the Peace to the following effect, that is to say: 14, 15 V. c. 84, s. 1. Oath of.
- “I, A. B., do swear that I will discreetly, impartially and faithfully execute all the trusts and powers committed unto me by virtue of an Act of the Parliament of this Province, made in the Session thereof held in the _____, year of the Reign of Her Majesty Queen Victoria, intituled, *An Act respecting Private Lunatic Asylums*; and that I will keep secret all such matters as come to my knowledge in the execution of my office, (except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of the duty imposed upon me by the said Act). So help me God.”
4. In case of the death, inability, disqualification, resignation, or refusal to act, of any Visitor, the Justices of the District or County, as the case may be, at any General or Quarter Sessions, shall appoint a Visitor in his room. 14, 15 V. c. 84, s. 2. Vacancies how filled.
5. The Clerk of the Peace for the District or County for which the Visitors are respectively appointed, shall within fourteen days from the date of their respective appointments, publish a list of the names, places of abode, and occupations or professions of the Visitors in some newspaper commonly circulated within the same District or County, and shall within three Names of visitors to be published by Clerk of the Peace.

three days from the date of their respective appointments send such list to the Governor. 14, 15 V. c. 84, s. 3.

Penalty for default.

6. Every Clerk of the Peace making default in either of the respects aforesaid, shall for every such default forfeit a sum not exceeding ~~two pounds ten shillings~~. 14, 15 V. c. 84, s. 3.

Clerk of the Peace, &c., to be visitors' Clerk.

7. The Clerk of the Peace or some other person to be appointed by the Justices for the District or County in General Quarter Sessions, shall act as Clerk to the Visitors so appointed, and such Clerk shall summon the Visitors to meet at such time and place, for the purpose of executing the duties of this Act, as the Justices in General or Quarter Sessions appoint.

Visitors' meetings to be private.

8. Every such appointment, summons and meeting shall be made and held as privately as may be, and in such manner that no proprietor, Superintendent or person interested in, or employed about or connected with any house to be visited, has notice of such intended visitation. 14, 15 V. c. 84, s. 4.

Oath of Clerk.

9. The Clerk to the Visitors shall, at their first meeting, take the following oath, to be administered by any one of the Visitors being a Justice, viz: 14, 15 V. c. 84, s. 4.

" I, A. B., do swear that I will faithfully execute all the trusts and duties committed to my charge, as Clerk to the Visitors appointed for the District (or County, as the case may be,) of _____, by virtue of an Act of the Parliament of this Province, passed in the Session thereof held in the (_____) year of the Reign of Her Majesty Queen Victoria, intituled, *An Act respecting Private Lunatic Asylums*; and that I will keep secret all such matters as come to my knowledge in the execution of my office, (except when required to divulge the same by legal authority). So help me God."

Name and residence of Clerk to be published.

10. The Clerk of the Peace of the District or County shall within fourteen days after the appointment of the Clerk to the Visitors, publish in some newspaper commonly circulated in such District or County, the name, place of abode, occupation and profession of such Clerk (whether he is the Clerk of the Peace or any other person), and the Clerk of the Peace shall also within three days from the date of such appointment communicate the same to the Governor. 14 15 V. c. 84, s. 4.

Penalty for default.

11. Every Clerk of the Peace making default in either of the respects aforesaid, shall for every default forfeit a sum not exceeding ~~two pounds ten shillings~~, and every Clerk to the Visitors shall be allowed such salary or remuneration for

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of the Peace?

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for his services (to be paid out of the moneys or funds herein-
after mentioned) as the Justices of the District or County in
General or Quarter Sessions direct. 14, 15 V. c. 84, s. 4.

12. If the Clerk of any Visitors, at any time desires to
5 employ an Assistant in the execution of the duties of his office,
he shall certify such desire, and the name of the proposed
Assistant to one of the Visitors, being a Justice; and if such
Visitor approves thereof, he shall administer the following oath
to such Assistant: 14, 15 V. c. 84, s. 5.

Assistant
Clerk.

10 "I, A. B. do solemnly swear that I will faithfully keep
"secret all such matters and things as come to my know-
"ledge in consequence of my employment as Assistant to
"the Clerk of the Visitors appointed for the District (or
"County of _____ by virtue of an Act of Parliament of
15 "this Province passed in the Session thereof held in the (_____
") year of the Reign of Her Majesty Queen Victoria,
"intituled, *An Act respecting Private Lunatic Asylums*, unless
"required to divulge the same by legal authority. So help me
"God."

Oath of.

20 13. The Clerk may thereafter, at his own cost, employ
such Assistant. 14, 15 V. c. 84, s. 5.

At whose
cost.

25 14. No person shall act as a Visitor or Clerk or Assistant
Clerk to any Visitors, or act in granting any License, who
then is or within one year then next preceding has been
directly or indirectly interested in any house licensed for the
reception of Lunatics, or in the profits of such reception. 14,
15 V. c. 84, s. 6.

Clerk not to
be interested
in the Insti-
tution.

30 15. No Physician being a Visitor shall sign any Certificate
for the admission of any patient into any licensed house or
hospital, or shall professionally attend upon any patient in
any licensed house or hospital unless he is directed to visit
such patient by the person upon whose order such patient has
been received into such licensed house or hospital, or by the
Provincial Secretary, or by the Chancellor or one of the Vice-
35 Chancellors, or by a Committee appointed by them or one
of them in Upper Canada, or by a Judge of the Superior
Court, or by a Curator duly appointed to the inter-
diction of such patient in Lower Canada. 14, 15 V. c. 84,
s. 6.

Restrictions
upon Physi-
cians being
visitors.

40 16. If any Visitor, or Clerk or Assistant Clerk to any
Visitors, after his appointment becomes so interested in any
house licensed for the reception of Lunatics, or in the profits
of such reception, such Visitor, Clerk or Assistant Clerk, shall
be disqualified from acting, and shall cease to act in such
45 capacity. 14, 15 V. c. 84, s. 6.

Visitor or
Clerk becom-
ing interested,
to cease.

Penalty for continuing to act.

17. If any person, being disqualified as aforesaid, takes the office of Visitor, Clerk, or Assistant Clerk, or, being a Visitor, Clerk or Assistant Clerk, becomes disqualified, as aforesaid, and afterwards continues to act in such capacity, such person shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 6. 5

Penalty on Physicians.

\$200,

18. If any Physician being a Visitor, signs a Certificate for the admission of a patient into any licensed house or hospital, or professionally attends any patient in any such house or hospital (except as aforesaid), such Physician shall for each offence forfeit the sum of ~~five~~ pounds. 14, 15 V. c. 10 84, 6.

Notice to applicants for license.

19. Every person who desires to have a house licensed for the reception of Lunatics, shall give a notice to the Clerk of the Peace for the District or County in which such house is situate, fourteen clear days at the least prior to some General or Quarter Sessions for such District or County. 14, 15 V. c. 84, s. 7.

Contents of.

20. Such notice shall contain the true christian and surname, place of abode, and occupation of the person to whom the license is desired to be granted, and a true and full description of his estate or interest in such house; and in case the person to whom the license is desired to be granted, does not propose to reside himself in the licensed house, the notice shall contain the true christian and surname, place of abode and occupation of the Superintendent who is to reside therein. 14, 15 V. c. 84, s. 7. 20

Plan of the house, &c.

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21. The notice shall be accompanied by a plan of the house, drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of-- 30

Its situation.

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1. The situation thereof;
2. The length, breadth and height of, and a reference by a figure or letter to every room and apartment therein;
3. A statement of the quantity of land, not covered by any building, annexed to such house, and appropriated to the exclusive use, exercise and recreation of the patients to be received therein,--and proposed 35
4. Also a statement of the number of patients proposed to be received into such house, and whether the license so applied for is for the reception of male or female patients, or of both, and if for the reception of both, of the number of each sex proposed to be received in such house, and of the means by which the one sex may be kept distinct and apart from the other. 14, 15 V. c. 84, s. 7. 40

22. Such notice, plan and statement, when sent to the Clerk of the Peace, shall be laid by him before the Justices of the District or County, at the time they take into their consideration the application for such license. 14, 15 V. c. 84, s. 7. To be submitted to the County Justices.

23. Any person to whom a license is granted, may remove the Superintendent named in the notice, and may at any time appoint another Superintendent, upon giving to the Visitors of the house a notice containing the true christian name and surname, place of abode and occupation of the new Superintendent. 14, 15 V. c. 84, s. 7. Superintendent—removal of.

24. No one license shall include or extend to more than one house; but if there be any place or building detached from a house to be licensed, but not separated therefrom by ground belonging to any other person, and if such place or building be specified, delineated and described in the notice, plan and statement hereinbefore required to be given, in the same manner in all particulars as if the same had formed part of such house, then such detached place or building may, if the Justices think fit, be included in the license for the house, and if so included, shall be considered part of such house for the purposes of this Act. 14, 15 V. c. 84, s. 8. One license for each house.

25. No addition or alteration shall be made to, in or about any licensed house, or the appurtenances, unless previous notice in writing of such proposed addition or alteration, accompanied with a plan thereof, to be drawn upon the scale aforesaid, and accompanied by such description as aforesaid, has been given to the Clerk of the Peace, by the person to whom the license has been granted, nor unless the consent in writing of two of the Visitors has been previously obtained. 14, 15 V. c. 84, s. 9. Alterations in Asylums.

26. If any person wilfully gives an untrue or incorrect notice, plan, statement or description of any of the things hereinbefore required to be included in any notice, plan or statement, he shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 10. Penalty for erroneous notice, description, &c.

27. In every case in which a license for the reception of Lunatics is granted by any Justices, the Clerk of the Peace for the District or County shall, within fourteen days after such license has been granted, send a copy thereof to the Provincial Secretary. 14, 15 V. c. 84, s. 11. Copy of license to be sent to the Provincial Secretary.

28. Any Clerk of the Peace omitting to send such copy within such time, shall for every such omission forfeit a sum not exceeding ~~Twenty Pounds~~. 14, 15 V. c. 84, s. 11. Penalty for omission.

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Applicants for renewal of licenses.

29. Every applicant for the renewal of a license, shall with the application, transmit to the Clerk of the Peace for the District or County, a statement signed by the applicant containing the names and numbers of the patients of each sex then detained in the house to which such license relates. 14, 15 V. c. 84, s. 12. 5

Penalty for obtaining renewal without new statement.

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30. Any person who obtains the renewal of a license without making such statement, shall for every such offence forfeit the sum of ~~Ten Pounds~~, and any person who makes any such statement untruly, shall be guilty of a misdemeanor. 14, 15 10 V. c. 84, s. 12.

Form of license.

31. Every license as nearly as conveniently may be, shall be according to the form in the Schedule (A) annexed to this Act, and shall be under the Hands and Seals of three or more Justices of the Peace for the District or County in General or 15 Quarter Sessions, assembled of whom the Chairman or other presiding Officer of such General or Quarter Sessions for the time being, shall be one, and shall be granted for such period, not exceeding thirteen months, as the Justices think fit. 14, 15 V. c. 84, s. 13. 20

Securities by licensee.

\$ 400 }
200 }
400 }

32. No such license shall be granted or renewed unless, the person to whom such license is granted or renewed, enters into a Bond to Her Majesty in the sum of ~~One Hundred Pounds~~, with two sufficient sureties, each in the sum of ~~Fifty Pounds~~, or one sufficient surety in the sum of ~~One Hundred Pounds~~, under the usual conditions for the good behaviour of such person during the time for which such license is granted or renewed. 14, 15 V. c. 84, s. 14. 25

Fees thereon.

\$ 2 }
32 }
60 }
60 }

33. For every license there shall be paid to the Clerk of the Peace for every patient proposed to be received into such house, the sum of ~~Ten Shillings~~ and if the total amount of such sums of ~~Ten Shillings~~, does not amount to ~~Fifteen Pounds~~, then so much more as together make up the sum of ~~Fifteen Pounds~~, and no such license shall be delivered until the sum payable for the same has been paid. 30 35

When redeemable.

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34. If the period for which a license is to be granted be less than thirteen months, the Justices may reduce the payment to be made on such license to any sum not less than ~~Five Pounds~~. 14, 14 V. c. 84, s. 15.

Application of fees.

35. All moneys to be received for licenses granted by any Justices under this Act, shall be applied by the Clerk of the Peace for the District or County towards the payment of the salary or remuneration of the Clerk to the Visitors for such District or County, and towards the payment or discharge of the costs, charges and expenses incurred by or under the authority of the same Justices or Visitors, in the execution of or by virtue of this Act. 14, 15 V. c. 84, s. 16. 40 45 36.

36. The Clerk of the Peace for every District or County shall keep an account of all moneys received and paid by him under or by virtue of or in the execution of this Act, and such accounts shall be made up to the last day of December in each year inclusively, and shall be signed by two at least of the Visitors for the District or County, and every such account shall be laid by the Clerk of the Peace before the Justices at the first General or Quarter Sessions in the ensuing year. 14, 15 V. c. 84, s. 17.

Clerk of the Peace to keep accounts of moneys received or expended.

37. If any person to whom a license has been granted under this Act, by sickness, or other sufficient reason, becomes incapable of keeping the licensed house, or dies before the expiration of the license, any three Justices for the District or County of whom a Circuit Judge, if in Lower Canada, or the Chairman of the Quarter Sessions for the County, if in Upper Canada, shall be one, may by writing endorsed on such license under all the privileges and obligations annexed thereto, for the term then unexpired, to such person as at the time of such incapacity or death was the Superintendent of such house, or had the care of the patients therein, or to such other person as such Justices approve, and in the mean time such license shall remain in force, and have the same effect as if granted to the Superintendent of the house. *Ibid.*, s. 18.

When license assignable.

of the Superior Court?

38. In case a license has been granted to two or more persons, and before the expiration thereof, one or more of such persons die leaving the other or others surviving, such license shall remain in force and have the same effect as if granted to the survivor or survivors. *Ibid.*

Survivorship.

be/

39. If any licensed house pulled down or occupied under the provisions of any Act of Parliament, or be by any *vis major*, or by fire, tempest or other accident, rendered unfit for the accommodation of Lunatics, or if the person keeping any such house desires to transfer the patients to another house, any two or more of the Visiting Justices for the District or County within which the new house is situate, upon the payment to the Clerk of the Peace of not less than ~~One pound~~ may grant to the person whose house has been so pulled down, occupied or rendered unfit as aforesaid, leave or license to keep such other house for the reception of Lunatics, for such time as the said Justices think fit: but the same notice of such intended change of house, and the same plans and statements and descriptions of and as to such intended new house, shall be given as are required when application is first made for license for any house, and shall be accompanied by a statement in writing of the cause of such change of house, and except in cases in which the change of house is occasioned by fire or tempest, seven clear days' previous notice of the intended

Transfer of patients.

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intended removal, shall be sent by the person to whom the license for keeping the original house was granted to the person who signed the Order for the reception of each patient, or the person by whom the last payment on account of each patient had been made. 14, 15 V. c. 84, s. 19. 5

Revocation of license

40. In case a majority of the Justices of any District or County, in General or Quarter Sessions assembled, resolve to recommend to the Governor the revocation of any license granted under this Act, or that the same be not renewed, such Justices shall cause to be given to the person licensed, or to the Resident Superintendent of the licensed house, or to be left at the licensed house, seven clear days previous notice in writing of the intended recommendation. *Ibid.*, s. 20. 10

When the Governor may revoke.

41. Upon the receipt of such recommendation the Governor, by an Instrument under his Hand and Seal, may revoke or prohibit the renewal of such license; and in the case of a revocation, the same shall take effect at a period to be named in the Instrument, not exceeding two months from the time a copy or notice thereof has been published in the *Canada Gazette*. 14, 15 V. c. 84, s. 20. 15 20

How revocation notified and promulgated

42. A copy or notice of the Instrument of revocation shall be transmitted to the person licensed or to the resident Superintendent of, or be left at, the licensed house, after which the same shall be published in the *Canada Gazette*. 14, 15 V. c. 84, s. 20. 25

ADMISSION OF PATIENTS.

Orders for admission of patients.

43. No person, whether being or represented to be a Lunatic, or only a boarder or lodger, in respect of whom any money is received or agreed to be received for board, lodging or any other accommodation, shall be received into or detained in any licensed house without an Order under the hand of some person according to the form, and stating the particulars required in Schedule B, nor without the Medical Certificates, according to the form in Schedule C, of two Physicians not being partners or brothers, or father and son, and each of whom separately from the other, had personally examined the person to whom it relates not more than seven clear days previously to the reception of such person into such house, and each of whom signed and dated the certificate on the day on which such person was so examined; and every person who receives or detains any such person in any such house without such Order and Medical Certificates, and any Physician who knowingly signs any such Medical Certificate untruly stating any of the particulars required by this Act, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 21. 30 35 40

Medical certificates.

Facts to be certified.

44. Every Physician who signs any such Certificate shall specify therein the fact or facts (whether arising from his own observation 45

observation or from the information of any other person) upon which he has formed his opinion that the person to whom such Certificate relates is a Lunatic, or an insane person, or an idiot, or a person of unsound mind. 14, 15 V. c. 84, s. 22.

5 **45.** No person shall receive to board and lodge in any house not licensed under this Act, or take the charge or care of any insane person without having first obtained the Medical Certificates required by this Act for the admission of an insane person into a licensed house. 14, 15 V. c. 84, s. 23.

Lunatics not to be received into unlicensed houses without medical certificates.

10 **46.** Every person who receives to board or lodge in any house not licensed under this Act, or takes the care or charge of any insane person, shall within three months next after receiving such insane person into his house, or under his care, transmit to the Clerk of the Visitors of the District, or County a copy of such Medical Certificates, sealed and endorsed "Private Return," and every such person shall also (if the insane person continues in his house or under his care) on the first day of January, of every year, or within seven clear days thereafter, transmit to such Clerk a Certificate, signed by two Physicians describing the then actual state of mind of such insane person, and endorsed "Private Return," and all such private Returns shall be preserved by the said Clerk, and shall be open to the inspection of the Visitors only; and every person who fails to conform to the provisions of this and the last preceding section shall be deemed guilty of a misdemeanor. 14, 15 V. c. 84, s. 23.

Notice thereof to be sent to the Clerk of the visitors.

15 **47.** Any person may, under special circumstances, be received into any such house, upon such Order with the Certificate of one Physician alone, provided the Order state the special circumstances which prevented the person from being examined by two Physicians; but in every such case another Certificate shall be signed by some other Physician, not connected with any house licensed as aforesaid, and who has specially examined such person within three days after his reception into such house.

When certificate of one Physician sufficient.

20 **48.** Every person who, having received any person into a house licensed as aforesaid upon the Certificate of one Physician alone, keeps such person or permits him to remain in the house beyond the said period of three days without such further Certificate, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 24.

Penalty for not obtaining a further certificate.

25 **49.** No Physician who, or whose father, brother, son or partner, is wholly or partly the proprietor of or a regular Professional Attendant in a licensed house, shall sign any certificate for the reception of a patient into such house; and no Physician who, or whose father, brother, son or partner, signs the Order hereinbefore required for the reception of a patient, shall

When Physicians not allowable to certify.

shall sign any Certificate for the reception of the same patient ; and any Physician who signs any Certificate contrary to any of the provisions hereinbefore contained, or without having complied with all the provisions hereby required in the case of the patient to whom the same relates, or who in such Certificate describes his medical qualification untruly, or untruly states any thing therein, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 25. 5

Books of entries to be kept, and entries therein.

50. Every proprietor or Superintendent who receives any patient into any licensed house, shall, within two days after the reception of such patient, make an entry with respect to such patient in a book to be kept for that purpose, to be called "the Book of Admissions," according to the form and containing the particulars required in Schedule (D), so far as he can ascertain the same, except as to the form of the mental disorder, and except also, as to the discharge or death of the patient, which shall be made when the same happens; and every person who so receives any such patient and does not, within two days thereafter, make such entry (except as aforesaid), shall forfeit a sum not exceeding ~~Two Pounds Ten Shillings~~ ^{Two} Pounds; and every person who knowingly and willingly in any such entry, untruly sets forth any of the particulars, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 26. 10

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The form of mental disorder to be entered.

51. The form of the mental disorder of every patient received into any licensed house, shall within seven days after the reception, be entered in the said Book of Admissions by the Medical Attendant of the house; and every Medical Attendant who omits to make any such entry within the time aforesaid, shall, for every offence, forfeit a sum not exceeding ~~Two Pounds Ten Shillings~~ ^{Two} Pounds. 14, 15 V. c. 84, s. 27. 20

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Copy of order to be sent by proprietor to Clerk of visitors.

52. The proprietor or resident Superintendent of every licensed house, shall, after two clear days, and before the expiration of seven clear days from the day on which any patient has been received into the house, transmit to the Clerk of the Visitors within whose jurisdiction the house is situate, a copy of the Order and Medical Certificates or Certificate on which the patient has been received, and also, a notice and statement according to the form in Schedule E; and every proprietor or resident Superintendent of any such house who neglects to transmit such copy, notice or statement, to the Clerk of the Visitors, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 28. 35

In cases of escape, what steps to be taken.

53. When a patient has escaped from a licensed house, the proprietor or Superintendent of such house shall, within two clear days next after the escape, transmit a written notice thereof to the Clerk of the Visitors within whose jurisdiction such house is situate; and the notice shall state the christian and surname of the patient who so escaped, and his or her then 45

then state of mind, and also the circumstances connected with the escape ; and if the patient be brought back to such house, the proprietor or resident Superintendent shall within two clear days after the patient has been brought back, transmit a written notice thereof to the Clerk of the Visitors ; and the notice shall state when the patient was so brought back, and the circumstances connected therewith, and whether with or without a fresh Order and Certificates or Certificate ; and every proprietor or resident Superintendent omitting to transmit such notice, whether of escape or of return, shall, for every omission, forfeit a sum of ~~Ten Pounds~~. 14, 15 V. c, 84, s. 29.

\$ 40

54. When a patient is removed or discharged from a licensed house, or dies therein, the proprietor or Superintendent of the house shall, within two clear days next after such removal, discharge or death, make an entry thereof in a Book to be kept for that purpose, according to the form, and stating the particulars in Schedule F, and shall also within the same two days transmit a written notice thereof, and also of the cause of the death, removal or discharge of the patient, if known, to the Clerk of the Visitors in whose jurisdiction the house is situate according to the form, and containing the particulars in Schedule G ; and every proprietor or Superintendent of any such house, who neglects to make such entry, or transmit such notice, or knowingly sets forth therein any thing untrue, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 30.

Removal—discharge, &c., to be noted in a book.

55. In case of the death of a patient in a licensed house, a statement of the cause of the death of the patient, with the name of any person present at the death, shall be forthwith drawn up and signed by the Medical Attendant of the house, and a copy thereof, duly certified by the proprietor or Superintendent of such house, shall, within forty-eight hours after the death of the patient, be by such proprietor or Superintendent transmitted to the nearest Coroner, and also to the Clerk of the Visitors, in whose jurisdiction the house is situate, and also to the person who signed the Order for the patient's confinement, or if such person be dead, or absent from the Province, then to the person who made the last payment on account of the patient, and every Medical Attendant, proprietor or Superintendent who neglects or omits to draw up, sign, certify, or transmit such statement as aforesaid, shall, for every such neglect or omission, forfeit and pay a sum not exceeding ~~Fifty Pounds~~. 14, 15 V. c. 84, s. 31.

Certificate required in case of death.

\$ 200.

56. If any Superintendent, Officer, Nurse, Attendant, Servant, or other person employed in any licensed house, in any way abuses or ill treats any patient confined therein, or wilfully neglects any such patient, he shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 32.

Penalty for mal-treatment of patients.

Remedy for persons illegally confined.

57. In case any person released from confinement in any licensed house considers himself to have been unjustly confined, the Clerk of the Visitors, within whose jurisdiction the house is situate shall at his request, furnish to him, or to his Attorney, without fee or reward a copy of the Certificates and Order upon which he has been confined; and the Governor may cause to be prosecuted on the part of the Crown, any person who has been concerned in the unlawful taking of any of Her Majesty's subjects as an insane patient, and likewise any person who has been concerned in the neglect or ill-treatment of any patient or persons so confined. 14, 15 V. c. 84, s. 32. 5 10

MEDICAL ATTENDANCE.

When there shall be an attendant physician.

58. In every house licensed for one hundred patients or more, there shall be a Physician resident as the Superintendent or Medical Attendant thereof; and every house licensed for less than one hundred, and more than fifty patients, (in case such house is not kept by, or has not a resident Physician,) shall be visited daily by a Physician, and every house licensed for less than fifty patients (in case such house is not kept by, or has not a resident Physician) shall be visited twice in every week by a Physician; but the Visitors of any house may direct that such house shall be visited by a Physician at any other time or times, not being oftener than once in every day. 14, 15 V. c. 84, s. 33. 15 20

When a visiting physician.

59. When any house is licensed to receive less than eleven lunatics, any two of the Visitors of such house, if they respectively think fit, may by writing under their hands, permit the house to be visited by a Physician at such intervals more distant than twice every week, as such Visitors appoint; but not at a greater interval than once in every two weeks. 14, 15 V. c. 84, s. 34. 25 30

Entries to be made by.

60. Every Physician, in case there be only one, keeping or residing in or visiting any licensed house, and in case there be two or more Physicians keeping or residing in or visiting any licensed house, then one at least of such Physicians, shall once in every week, (or, in the case of any house at which visits at more distant intervals than once a week are permitted then shall on every visit), enter and sign in a Book to be kept at such house for that purpose, to be called "The Medical Visitation Book," a Report shewing; 35 40

1. The date thereof;
2. The number, sex, and state of health of all the patients then in the house;
3. The christian and surname of every patient who has been under restraint, or in seclusion, or under Medical treatment, since the date of the last preceding Report;
- 4.

4. The condition of the house, and every death, injury, and act of violence which has happened to or affected any patient since the then last preceding Report, according to the form in Schedule H, and every such Physician who omits to enter or sign such Report, shall for every such omission forfeit and pay the sum of ~~Twenty Pounds~~, and every such Physician who in any such Report enters any thing untruly, shall be guilty of a misdemeanor. 14, 15 V. c. 84, s. 35.

61. There shall be kept in every licensed house, a Book to be called "The Case Book," in which the Physician keeping or residing in or visiting such house, shall from time to time make entries of the mental state and bodily condition of each patient, together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder, and the Visitors within whose jurisdiction any licensed house is situate, may, wherever they see fit, by an Order in writing, require the Physician keeping or residing in or visiting such house, to transmit to them a correct copy of the entries or entry in the Case Book kept under the provisions of this Act relative to the case of any Lunatic who is or has been confined in such house, and every Physician who neglects to keep the said Case Book, or to enter therein the particulars of each patient's case, or to transmit a copy of any entry therein pursuant to any such Order, shall for every such neglect forfeit a sum not exceeding ~~Ten Pounds~~. 14, 15 V. c. 84, s. 36.

A book to be kept called "the case book."

62. Every licensed house within the jurisdiction of any Visitors appointed under this Act, shall be visited by two at least of the said Visitors, (one of whom shall be a Physician,) four times at the least in every year, on such days and at such hours in the day, and for such length of time as the Justices by whom the house has been licensed direct. 14, 15 V. c. 84, s. 37.

Visitors to visit licensed houses.

63. The Visitors when visiting any such house, shall inspect every part of the house, and every house, out-house, place and building communicating therewith, or detached therefrom but not separated by ground belonging to any other person, and every part of the ground or appurtenances held, used or occupied therewith, and shall see every patient then confined therein, and shall enquire whether any patient is under restraint, and why, and shall inspect the Order and Certificates or Certificate for the reception of every patient who has been received into such house since the last visit of the Visitors, and shall enter in the Visitor's Book a Minute ;

Duties of in making visits.

1. Of the then condition of the house, and of the patients therein ;

2. The number of patients under restraint, with the reasons thereof as stated ;

3.

3. Such irregularity (if any) as exists in any such Order or Certificate ;

4. Whether the previous suggestions (if any) of the Visitors, have or have not been attended to, and

5. Any observations which they deem proper as to any of the matters aforesaid, or otherwise. 14, 15 V. c. 84, s. 37. 5

Duties of proprietor or superintendent towards the visitors.

64. The proprietor or Superintendent of every licensed house shall show to the Visitors visiting the same, every part thereof and every person detained therein as a Lunatic ; and every proprietor or Superintendent of any licensed house who conceals or attempts to conceal from, or refuses or wilfully neglects to shew to any such Visitors, or to any person authorized under any power or jurisdiction of this Act to visit and inspect such house, any part of the house, or any house, out-house, 10 place or building communicating therewith, or detached therefrom but not separated as aforesaid, or any part of the ground or appurtenances held, used or occupied therewith, or any person detained or being therein, or the patients confined therein, or any of them, shall be guilty of a misdemeanor. 14, 15 20 V. c. 84, s. 38.

Inquires to be made by the visitors.

65. The Visitors upon their several visitations to a licensed house, shall inquire ;

1. Where Divine Service is performed therein, to what number of the patients, and the effect thereof ; 25

2. What occupations or amusements are provided for the patients, and the result thereof ;

3. Whether there has been adopted any system of non-coercion, and if so, the result thereof ; 30

4. As to the classification of patients ;

5. And such other inquiries as to such Visitors seem expedient. 30

Penalty for refusing information.

66. Every proprietor or Superintendent of a licensed house who does not give full and true answers to the best of his knowledge to all questions which the Visitors ask in reference to the matters aforesaid, shall be guilty of misdemeanor. 14, 15 V. c. 84, s. 39. 30

What information to be laid before the visitors.

67. Upon every visit of the Visitors to any licensed house, there shall be laid before such Visitors by the proprietor or Superintendent of the house ; 40

1. A list of all the patients then in the house, (distinguishing males from females, and specifying such as are deemed curable);

2. The several Books by this Act required to be kept by the proprietor or Superintendent, and by the Medical Attendant of a licensed house;

3. All Orders and Certificates relating to patients admitted since the visitation of the Visitors;

4. The license then in force for such house, and

5. All such other Orders, Certificates, Documents and Papers relating to any of the patients at any time received into such house, as the Visitors from time to time require to be produced to them; and the Visitors shall sign the said Books as having been so produced. 14, 15 V. c. 84, s. 40.

68. There shall be hung up in some conspicuous part of every licensed house, a copy of the plan given to the Justices on applying for the license for such house; and there shall be kept in every such house a Queen's Printer's copy of this Act, bound in a Book, to be called "The Visitors' Book," and the Visitors shall at the time of their visitations enter therein the result of the inspections and inquiries herein before directed or authorized to be made by them, with such observations (if any) as they think proper; and there shall also be kept in every such house, a Book to be called "The Patients' Book," and the Visitors, shall, at the times of their visitations, enter therein such observations as they think fit respecting the state of mind or body of any patient in such house. 14, 15 V. c. 84, s. 41.

What information to be hung up in every licensed house.

69. The proprietor or resident Superintendent of every licensed house, shall, within three days after every visit by the Visitors, transmit to the Clerk of the Visitors, a true and perfect copy of the entries made by them in "The Visitors' Book," "The Patients' Book," and "The Medical Visitation Book," respectively, distinguishing the entries in the several Books.

Copies of visitors' entries to be sent to the Clerk.

70. The copies so transmitted to the Clerk of the Visitors of all such entries, relating to any licensed house, and made since the grant or last renewal of the license thereof, shall be laid before the Justices, on taking into consideration the renewal of the license to the house to which such entries relate.

And be by him laid before the Justices, &c.

71. Every proprietor or Superintendent, who omits to transmit to the Clerk of the Visitors, a true and perfect copy of every such entry, shall, for every omission, forfeit a sum not exceeding Ten Pounds. 14, 15 V. c. 84, s. 42.

Penalty on proprietor omitting.

\$ 40.

Nocturnal visits.

72. Any two Visitors may visit and inspect any licensed house within their jurisdiction at such hour of the night as they think fit. 14, 15 V. c. 84, s. 43.

Order for discharge.

73. In case the person who signed the Order on which a patient has been received into a licensed house, by writing under his hand, directs such patient to be removed or discharged, such patient shall forthwith be removed or discharged accordingly. 14, 15 V. c. 84, s. 44.

If person who signed the order for admission becomes incapable, what to be done.

74. If the person who signed the Order upon which a patient has been received into a licensed house is incapable by reason of insanity or absence from the Province, or otherwise, of giving an Order for the discharge or removal of such patient, or if such person is dead, then, the husband or wife of such patient, or if there be no such husband or wife, the father of such patient, or if there be no father, the mother of such patient, or if there be no mother, then any one of the nearest of kin for the time being of such patient, or the person who made the last payment on account of such patient, may, by writing under his or her hand, give such direction for the discharge or removal of the patient, and thereupon such patient shall be forthwith discharged or removed accordingly. 14, 15 V. c. 84, s. 45.

What to be done if the physician in charge objects.

75. No patient shall be discharged or removed from any licensed house under any of the powers hereinbefore contained, if the Physician by whom the same is kept, or who is the regular Medical Attendant thereof, by writing under his hand, certifies that in his opinion such patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless the Visitors of such house, after such Certificate has been produced to them, give their consent, in writing, to the discharge or removal of such patient. 14, 15 V. c. 84, s. 46.

Transfer from one house to another or to an Asylum.

76. Nothing herein contained shall prevent any patient from being transferred from one licensed house to another licensed house, or to an Asylum, but in such case every such patient shall for the purpose of such removal, be placed under the control of an Attendant belonging to the licensed house to or from which he is about to be removed and shall remain under such control until the removal has been duly effected. 14, 15 V. c. 84, s. 46.

Special visits by visitors and when they may order discharge of patients.

77. Any two or more of the Visitors of any licensed house, of whom one shall be a Physician, may make special visits to any patient detained in such house, on such days and at such hours as they think fit, and if after two distinct and separate visits made by the same Visitors it appears to them that the patient is detained without sufficient cause, they may order his discharge and the patient shall be discharged accordingly. 14, 15 V. c. 84, ss. 47.

78. Every Order by Visitors for the discharge of a patient from a licensed house shall be signed by them, and they shall not order the discharge of a patient from any such house without having previously, examined the Medical Attendant of the house if he tenders himself for that purpose, as to his opinion respecting the fitness of the patient to be discharged. 14, 15 V. c. 84, s. 48.

To sign the orders, &c.

79. If the Visitors, after examining the Medical Attendant, discharge a patient, and the Medical Attendant furnishes them with a statement, in writing, containing his reasons against the discharge of such patient, they shall forthwith transmit such statement to the Clerk of the Visitors, to be kept and registered in a Book for that purpose. 14, 15 V. c. 84, s. 48.

If physician in charge objects, what to be done.

80. Not less than seven days shall intervene between the first and second of such special visits, and the Visitors shall, seven days previously to the second of such special visits, give notice thereof, either by post, or by an entry in the Patients' Book, to the proprietor or Superintendent of the licensed house in which the patient intended to be visited is detained, and such proprietor or Superintendent shall forthwith, if possible, transmit by post a copy of such notice to the person by whose authority such patient has been received into such house, or by whom the last payment on account of such patient was made, and also to the Clerk of the Visitors of the house. 14, 15 V. c. 84, s. 49.

Time to intervene between special visits, &c.

81. None of the powers of discharge hereinbefore contained, shall extend to any Lunatic confined under an Order or Authority of the Governor of this Province, or under the Order of any Court of Criminal Jurisdiction. 14, 14 V. c. 84, s. 50.

What lunatics the visitors cannot discharge.

82. If any person applies to a Visitor to be informed whether any particular person is confined in a licensed house within the jurisdiction of such Visitor, the Visitor, if he thinks it reasonable to permit such inquiry to be made, shall sign an Order to the Clerk of the Visitors, and the Clerk shall, upon receipt of such Order, and on payment to him of a sum not exceeding one Shilling for his trouble, make search amongst the returns made to him in pursuance of this Act, whether the person inquired after is, or, within the then last twelve months, had been, confined in any licensed house within the jurisdiction of such Visitor; and if it appears that such person is or had been so confined, the Clerk shall deliver to the person applying a statement in writing, specifying: 14, 15 V. c. 84, s. 51.

Information to be given to persons who apply respecting individuals detained as Lunatics.

Twenty cents

1. The situation of the house in which the person so inquired after appears to be or to have been confined;

2. The name of the proprietor or resident Superintendent thereof;

3.

3. The date of the admission of such person into such licensed house ; and

4. (In case of his having been removed or discharged) the date of his removal or discharge therefrom.



Admission of relatives, order for.

83. Any one of the Visitors of a licensed house may at any time give an Order in writing under his hand for the admission to any patient confined in such house, of any relation or friend of such patient or of any medical or other person whom any relation or friend of the patient desires to be admitted to him. 14, 15 V. c. 84, s. 52.

Extent of such order.

84. Such Order of Admission may be either for a single admission, or for an admission for any limited number of times, or for admission generally at all reasonable times, and either with or without restriction as to such admission or admissions being in the presence of a Keeper or not, or otherwise. 14, 15 V. c. 84, s. 52.

Penalty for refusing admission.

85. If the proprietor or Superintendent of any such house refuses admission to, or prevents or obstructs the admission to any patient, of any relation, friend or other person who produces such Order of Admission, he shall for every such refusal, prevention or obstruction, forfeit a sum not exceeding ~~Twenty~~ ^{£80.} Pounds. 14, 15 V. c. 84, s. 52.

On what authority patients may be taken on excursions for benefit of health.

86. The proprietor or Superintendent of any licensed house, with the consent in writing of any two of the Visitors of such house, may send or take, under proper control, any patient to any specified place for any definite time for the benefit of his health ; but before such consent is given by any Visitors, the approval in writing of the person who signed the Order for the reception of the patient, or by whom the last payment on account of such patient has been made, shall be produced to such Visitors, unless they, on cause shewn, dispense with the same. 14, 15 V. c. 84, s. 53.

What temporary circumstances not to affect original certificates and order.

87. In every case in which a patient under any of the powers or provisions of this Act, is removed temporarily from the licensed house into which the Order for his reception has been given, or is transferred from such house into any new house, and also in every case in which any patient has escaped from any such house and been retaken within fourteen days next after such escape, the Certificate or Certificates relating to and the original Order for the reception of such patient shall respectively remain in force, in the same manner as the same would have done if such patient had not been so removed or transferred, or had not so escaped and been retaken. 14, 15 V. c. 84, s. 54.

88. Every proprietor or Superintendent of a licensed house, who receives a proper Order in pursuance of this Act, accompanied with the required Medical Certificates or Certificate for the reception or taking care of any person as a Lunatic, and the Assistants and servants of such proprietor or Superintendent, may take charge of, receive and detain such patient until he dies or is removed or discharged by due authority; and in case of the escape of the patient, may retake him at any time within fourteen days after his escape, and again detain him as aforesaid. 14, 15 V. c. 84, s. 55.

Persons licensed authorized to receive and detain patients, &c.

89. In every Writ, Indictment, Information, Action and other proceeding preferred or brought against any proprietor or Superintendent, or against any Assistant or servant of any proprietor or Superintendent, for taking, confining, detaining or making any person as a Lunatic, the party complained of may plead in defence such Order and Certificates or Certificate, and such Order and Certificates or Certificate shall, as respects such party, be a justification for taking, confining, detaining or retaking the Lunatic or alleged Lunatic. 14, 15 V. c. 84, s. 55.

Defence in case of prosecution.

90. The Visitors of any licensed house, or any two of such Visitors, may, from time to time, by Summons under their Hands and Seals, (according to the form in Schedule (J), or as near thereto as the case permits,) require any person to appear before them to testify, on oath, the truth touching any matters respecting which they are by this Act authorized to inquire, (which oath such Visitors are hereby empowered to administer;) and every person who does not appear before such Visitors pursuant to such Summons, or does not assign some reasonable excuse for not appearing, or appears and refuses to be sworn or examined, shall, on being convicted thereof before one of Her Majesty's Justices for the District or County, forfeit a sum not exceeding five Pounds for every such neglect or refusal. 14, 15 V. c. 84, s. 56.

Visitors may compel the attendance of witnesses.

91. Any Visitors who summon a person to appear and give evidence as aforesaid, may direct the Clerk of such Visitors to pay to such person all reasonable expenses of his appearance and attendance, in pursuance of the Summons; the same to be considered as expenses incurred by the Visitors, in the execution of this Act, and to be taken into account and paid accordingly. 14, 15 V. c. 84, s. 57.

Expenses of how paid.

92. Every complaint or information of or for any offence against this Act, where any pecuniary penalty is imposed may be made before one Justice. 14, 15 V. c. 84, s. 58.

One Justice may receive complaints.

93. When any person is charged upon oath, before a Justice, for any offence against this Act, such Justice may summon the person charged to appear at a time and place to be named in

Powers of the Justice to hear.

\$ 200.

in the Summons, and if he does not appear then upon proof of due service of the Summons, (either personally or by leaving the same at his last or usual place of abode,) any two Justices may either proceed to hear and determine the case, or may issue their Warrant for apprehending such person and bringing him before any two Justices. 14, 15 V. c. 84, s. 58.

And decide
the same

94. Any two Justices upon the appearing of such person, pursuant to the Summons, or upon such person being apprehended under a Warrant, or upon the non-appearance of such person, shall hear the matter of every such complaint or information, and make such determination thereon as the Justices think proper. 14, 15 V. c. 84, s. 58.

Penalties may
be reduced,
and how le-
vied.

95. Upon conviction of any person, such Justices may, if they think fit, reduce the amount of the penalty by this Act imposed for the offence, to any sum not less than one-fourth of the amount thereof, and shall issue a Warrant under their Hands and Seals for levying such penalty, or reduced penalty, and all costs and charges of the Summons, Warrant and hearing, and all incidental costs and charges, by distress and sale of the goods and chattels of the person convicted. 14, 15 V. c. 84, s. 58.

Detention of
defendant.

96. Such two Justices may order any person so convicted to be detained and kept in the custody of any Constable or other Peace Officer until return can be conveniently made to such Warrant of Distress, unless the offender gives security by way of Recognizance or otherwise, to the satisfaction of such Justices, for his appearance before them on such day as they appoint for the return of the Warrant of Distress, such day not being more than seven days from the time of taking such security. 14, 15 V. c. 84, s. 58.

If no sufficient
distress.

97. If, upon the return of the Warrant of Distress, it appears that no sufficient distress can be had whereupon to levy the penalty or reduced penalty, and the costs and charges, and if the same are not forthwith paid, or in case it appears to the satisfaction of such Justices, either by the confession of the offender or otherwise, that the offender hath not sufficient goods and chattels whereupon the penalty or reduced penalty, costs and charges can be levied, such Justices shall, by Warrant under their Hands and Seals, commit the offender to the Common Gaol or House of Correction of the District or County, as the case may be, for any term not exceeding three months, unless such penalty or reduced penalty, costs and charges, be sooner paid. 14, 15 V. c. 84, s. 58.

How penalties
to be disposed
of.

98. All penalties and reduced penalties, when recovered, shall be paid to the Clerk of the Peace for the District or County in which the offence was committed, to be applied when reco-
for the District
to be by him
applied

applied and accounted for as hereinbefore directed with respect to moneys received for licenses granted by the Justices of such District or County ; and the overplus (if any) arising from such distress and sale, after payment of the penalty or reduced penalty, and all costs and charges as aforesaid, shall be paid, upon demand, to the owner of the goods and chattels so distrained. 14, 15 V. c. 84, s. 58.

99. The Justices before whom any person is convicted of any offence against this Act for which a pecuniary penalty is imposed, may cause the conviction to be drawn up in the following form, or in any other form to the same effect, as the case may require ; and no conviction under this Act shall be void through want of form :

Form of convictions.

100. Be it remembered, that on the _____ day of _____, in the _____ year of our Lord _____, at _____, A. B. was convicted before us _____ of Her Majesty's Justices of the Peace for the said District (or County), for that he the said _____ and we the said _____ do adjudge the said _____ for his said offence to pay the sum of _____." 14, 15 V. c. 84, s. 59.

100. Any person who thinks himself aggrieved by the Order or determination of any Justices under this Act, may, within _____ months after such Order made or given, appeal to the Justices at General or Quarter Sessions ; the person appealing having first given at least fourteen clear days' notice in writing of the appeal, and the nature and matter thereof, to the person appealed against, and forthwith after such notice entering into Recognizance before some Justice, with two sufficient sureties, conditioned to try such appeal and to abide the Order and Award of the said Court thereupon. 14, 15 V. c. 84, s. 60.

Appeals.

101. The Justices at General or Quarter Sessions, upon the proof of such notice and Recognizance having been given and entered into, shall, in a summary way, hear and determine the appeal, or if they think proper, may adjourn the hearing thereof until the next General or Quarter Sessions, and if they see cause, may mitigate any penalty to not less than one fourth of the amount imposed by this Act, and may order any money to be returned which has been levied in pursuance of the Order or determination appealed against, and may also award such further satisfaction to the party injured, or such costs to either of the parties as they judge reasonable and proper ; and all such determinations of the said Justices at General or Quarter Sessions shall be final, and conclusive upon all parties to all intents and purposes whatsoever. 14, 15 V. c. 84, s. 60.

Justices in Q. S. to hear.

Limitation of actions.

102. If any action or suit be brought against any person for any thing done in pursuance of this Act, the same shall be commenced within twelve months next after the release of the party bringing the action, and shall be laid or brought in the District or County where the cause of action arose, and not elsewhere. 14, 15 V. c. 84, s. 61.

Defendants may plead general issue, &c.

103. The defendant in every such action or suit may, at his election, plead specially or plead the general issue not guilty, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if the same appears to have been so done, or if it appears that such action or suit has been brought in any other District or County than where the cause of action arose, or was not commenced within the time hereinbefore limited for bringing the same, then the Jury shall find a verdict for the defendant; and upon a verdict being so found, or if the plaintiff be non-suited or discontinues his action or suit after the defendant has appeared, or if upon demurrer judgment be given against the plaintiff, then the defendant shall recover double costs, and have such remedy for recovering the same as any defendant has in other cases by law. 14, 15 V. c. 84, s. 61.

When Clerk of visitors to prosecute.

104. The Clerk of any Visitors may on their Order, prosecute any person for any offence against the provisions of this Act committed within the jurisdiction of such Visitors, and may sue for and recover any penalty to which any person within the jurisdiction of the Visitors is made liable by this Act. 14, 15 V. c. 84, s. 62.

How penalties recovered by him to be disposed of.

105. All penalties sued for and recovered by any such Clerk shall be paid to him, and shall be by him paid to the Clerk of the Peace for the District or County, and the Clerk of the Peace shall apply and account for the same as hereinbefore enacted with respect to moneys received for licenses by Clerks of the Peace. 14, 15 V. c. 84, s. 62.

Order of visitors necessary to authorize suits for penalties or prosecutions for offences.

106. No one shall prosecute any person for any offence against the provisions of this Act, or sue for any penalty to which any person is made liable by this Act, except by Order of Visitors having jurisdiction in the place where the cause of prosecution has arisen or the penalty been incurred, or with the consent of Her Majesty's Attorney General or Solicitor General for Lower or Upper Canada, as the case may require. 14, 15 V. c. 84, s. 62.

What to be sufficient proof of compliance with certain regulations in case of prosecution.

107. In case any person be proceeded against for omitting to transmit or send any copy, list, notice, statement or other document hereinbefore required to be transmitted by such person, and such person proves by the testimony of one person upon oath, that the copy, list, notice, statement, or other document

document in respect of which such proceeding has been taken, was put into the proper Post Office in due time, or (in case of documents required to be transmitted to a Clerk of the Peace), left at the office of such Clerk of the Peace, and was properly addressed, such proof shall be a bar to all further proceedings in respect of such omission. 14, 15 V. c. 84, s. 63.

108. The costs, charges and expenses incurred by or under the Order of any Visitors, shall be paid by the Clerk of the Peace for the District or County, and be included by him in the account of receipts and payments hereinbefore directed to be kept by him. 14, 15 V. c. 84, s. 64. Costs under orders, &c., of visitors provided for.

109. In this Act and the Schedules thereto the words and expressions following shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say: "District," shall mean a District in Lower Canada; "County," shall mean a County or Union of Counties, City or Town, in Upper Canada, having a separate Commission of the Peace; "Lunatic," shall mean every insane person, and every person being an Idiot or Lunatic, or of unsound mind; "Patient," shall mean every person received or detained as a Lunatic, or taken care or charge of as a Lunatic; "Proprietor," shall mean every person to whom any license is granted under the provisions of this Act, and every person keeping, owning, or having any interest, or exercising any duties or powers of a proprietor in any licensed house; "Clerk of the Peace," shall mean every Clerk of the Peace and person acting as such, and every Deputy duly appointed; "Justice," shall mean a Justice of the Peace; "Medical Attendant," shall mean every Physician who keeps any licensed house, or in his medical capacity attends any licensed house; "Physician," shall mean every person of the male sex authorised to practise physic, surgery or midwifery in this Province; "Licensed house," shall mean a house licensed under the provisions of this Act. 14, 15 V. c. 84, s. 65. Interpretation.

110. Nothing in this Act contained shall extend to the Provincial Lunatic Asylum at Toronto, or to the temporary Lunatic Asylum at Beauport, near Quebec. 14, 15 V. c. 84, s. 66. Application of Act.

SCHEDULES REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A)--SECTION 31.

FORM OF LICENSE.

KNOW ALL MEN that we, the undersigned Justices of the Peace, acting in and for the of General (or Quarter, or Special) Sessions assembled, do hereby certify that A. B., of in hath delivered to the Clerk of the Peace for the said a plan and description of a house and premises proposed to be licensed for the reception of Lunatics, situate at in the County of (or, in the case of a renewed license,) hath delivered to the Clerk of the Peace for the said a list of the number of patients now detained in a house and premises licensed on the day of last, for the reception of Lunatics, situated at in the County of and we have considered and approved the same, do authorize and empower the said A. B. (he intending [or not intending] to reside therein) to use and employ the said house and premises for the reception of male (or, female, or, male, and female) Lunatics, for the space of months from this date.

ind

Given under our Hands and Seals this in the year of our Lord, one thousand eight hundred and day of

Witness,

Y. Z.,
Clerk of the Peace.

SCHEDULE (B)--SECTION 43.

ORDER FOR THE RECEPTION OF A PATIENT.

I, the undersigned, hereby request you to receive A. B., a Lunatic (or, an insane person, or, a Idiot, or, a person of unsound mind) as a patient into your house.--

(Signed,)

Occupation (if any,) place of abode, degree of relationship (if any,) or other circumstances of connection with the Patient. Name.

Name of Patient, with Christian name at length.
Sex and age.

Married,

SCHEDULE (E.)—SECTION 52.

NOTICE OF ADMISSION.

I hereby give you notice, that A. B. was received into this House as a Patient on the _____ day of _____, and I hereby transmit a copy of the Order and Medical Certificates (or Certificate) on which he was received.

Subjoined is a statement with respect to the mental and bodily condition of the above named Patient.

(Signed,)

Name.

Superintendent (or Proprietor) of

day of _____, one thousand eight

Dated this
hundred and

STATEMENT.

I have this day seen and personally examined A. B., the Patient named in the above notice, and hereby certify that, with respect to mental state, he (or she, _____), and that, with respect to bodily health and condition, he (or she _____)

(Signed,)

Name.

*Medical Proprietor (or Superintendent,
or Attendant) of*

day of _____, one thousand eight

Dated this
hundred and

SCHEDULE

SCHEDULE (G.)—SECTION 54.

FROM OF NOTICE OF DISCHARGE OR DEATH.

I hereby give you notice that a patient received
 into this house on the day of was discharged
 therefrom, recovered (or relieved, or not improved) (or was
 removed therefrom) by the authority of (or died therein)
 on the day of

(signed,)

Name.

Superintendent (or Proprietor)
 of house, at

Dated this day of one thousand eight
 hundred and

In case of death, add—and I further certify that A. B. was
 present at the death of the said and that the
 apparent cause of the death of the said
 (ascertained by *post mortem* examination, if so) was

SCHEDULE

SCHEDULE (H.)—SECTION 60. No. 4.

FORM OF MEDICAL JOURNAL, AND WEEKLY REPORT.

Date of Report.	Number of Patients.		Names of Patients under restraint, (and by what means,) or in seclusion.		Names of Patients under Medical Treatment.		Report on state of health of Patients, and conditions of House.	Deaths, injuries and violences to Patients.
	Males.	Females.	Males.	Females.	Males.	Females.		

TITLE.

Wherry's Schedule of
(See Section 90)

TITLE 7.

RELIGIOUS MATTERS.

CAP. LXXIV.

An Act respecting Rectories.

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

Whereas the recognition of legal equality among all Religious Denominations is an admitted principle of Colonial Legislation ; And whereas in the state and condition of this Province, to which such a principle is peculiarly applicable, it is desirable that the same should receive the sanction of direct Legislative Authority, recognizing and declaring the same as a fundamental principle of our civil policy : Therefore,

1. The free exercise and enjoyment of Religious Profession and Worship, without discrimination or preference, so as the same be not made an excuse for acts of licentiousness, or a justification of practices inconsistent with the peace and safety of the Province, is by the constitution and laws of this Province allowed to all Her Majesty's subjects within the same. 14, 15 V. c. 175, s. 1.

The free exercise of religious profession, &c., guaranteed.

2. No Letters Patent shall be hereafter issued in this Province by the Crown for the erection of any Parsonages or Rectories, according to the establishment of the Church of England, or for the endowment thereof, out of the Clergy Reserves or the Public Domain, or for the presentation of any Incumbent or Minister to any such Parsonage or Rectory. 14, 15 V. c. 175, s. 2.

No Rectories to be hereafter created.

3. Nothing herein contained shall in any wise affect any proceedings heretofore had, whereby certain Parsonages or Rectories were erected and endowed, or supposed to be erected and endowed by the authority of an Act of the Imperial Parliament, passed in the thirty-first year of the Reign of King George the Third, Chapter thirty-one, intituled, *An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,* or whereby certain Incumbents or Ministers were presented, under the same authority, to such Parsonages or Rectories, or any of them, but the legality or illegality of all such proceedings shall be adjudicated upon and determined as if this Act had not been passed. 14, 15 V. c. 175, s. 2.

Existing Rectories not to be affected by this Act.

Presentation
to such Rec-
tories provided
for.

4. The right of presenting an Incumbent or Minister to any such Parsonage or Rectory shall vest in, and be exercised by the Church Society of the Church of England Diocese within which the same is situated, or in such other person or persons, bodies politic or corporate, as such Church Society, by any By-law or By-laws to be by them from time to time passed for that purpose, may think fit to direct or appoint in that behalf. 14, 15 V. c. 175, s. 3.

TITLE.

TITLE 8.

PROFESSIONS.

CAP. LXXV.

An Act respecting the study of the Law in this Province.

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

1. In case any person who has been duly authorized to practise as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Lower Canada, or who has been found capable and qualified, and entitled to receive a Diploma for that purpose under the provisions of the Act respecting the *Incorporation of the Bar of Lower Canada*, or who has been duly registered as a clerk and studied during the periods for study respectively required under the provisions of the said Act, such person, on producing sufficient evidence thereof, and also on producing testimonials of good character, and undergoing an examination in the Law of Upper Canada, to the satisfaction of the Law Society of Upper Canada, may be called by the said Society to the degree of a Barrister, upon his entering himself of the said Society, and conforming to all the rules and regulations thereof. 13, 14 V. c. 26, s. 1.
- Admission of Lawyers or Students from L. C. to the Bar in U. C.
2. The Courts of Queen's Bench, Chancery and Common Pleas in Upper Canada respectively, may in their discretion admit as Attornies or Solicitors of the said Courts respectively, any such person so called to the degree of a Barrister as aforesaid, on producing such evidence and testimonials, and undergoing such examination as aforesaid, to the satisfaction of such Courts respectively. 13, 14 V. c. 26, s. 2.
- Admission of Lawyers or Students from L. C. as attornies or solicitors in U. C.
3. Any person who has been duly called and admitted to the practice of the Law as a Barrister in Upper Canada, according to the constitution and establishment of the Law Society of Upper Canada, or is duly qualified and entitled to be so called and admitted, may on producing sufficient evidence thereof, and also on producing testimonials of good character, and undergoing an examination in the Law of Lower Canada to the satisfaction of the proper Committee of the Council of any Section of the Bar of Lower Canada, apply for and obtain from the *Bâtonnier* of such Section a Diploma authorizing him to practise as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Lower Canada and such diploma shall be in the form following or to the like effect: 13, 14 V. c. 26, s. 3.
- Admission of Lawyers or Students from U. C. to the Bar in L. C.

SCHEDULE.

SCHEDULE.

PROVINCE OF CANADA, }
 District of }

To all whom these presents shall concern—GREETING.

X We, the undersigned, *Bâtonnier* of the Bar of Lower Canada, Section of the District of _____ in conformity with the provisions of the Act of the Parliament of this Province, An Act respecting the Incorporation of the Bar of Lower Canada, and of the Act respecting the study of the Law in this Province, and in pursuance of the Certificate to us delivered by three (or several, as the case may be) of the Examiners of the said section, dated the _____ of the _____ has

produced the evidence and testimonials, and undergone the examination necessary to his admission to the order of Advocate, under the provisions of the Act last above cited, and that from such evidence, testimonials and examination, they are satisfied that he is in all respects worthy and qualified to be so admitted, have given and granted to him, and by these presents do give and grant to him, according to the provisions of the said Acts, the present Diploma, conferring on him the right of practising as an Advocate, Barrister, Attorney, Solicitor and Procurator at Law, in all Courts of Law in Lower Canada.

Given at the City (or Town) of _____ under
 our signature and the Seal of our Section, and countersigned
 by the Secretary thereof, this _____ day of _____
 in the year of Our Lord one thousand eight hundred and _____

[L. S.]

[Signed]

A. B.,
Bâtonnier.

C. D.,
Secretary.

C A P. L X X V I.

An Act respecting the practice of Physic and Surgery, and the Study of Anatomy.

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

1---PHYSIC AND SURGERY.

1. Any person duly licensed or legally authorized to practise as a Physician, or as a Surgeon, or as both, either in Upper Canada, or Lower Canada, may practise in any part of this Province, in the same line of his Profession in which he might without this Act have practised in one of the aforesaid portions of this Province ; but subject to the same Laws as other Practitioners in the portion of the Province in which he practises. 4, 5 V. c. 41.

Persons duly authorized to practise Physic or Surgery in one portion of this Province may practise in any part thereof.

2---ANATOMY.

2. The body of any person found dead publicly exposed, or who immediately before death had been supported in and by any Public Institution receiving pecuniary aid from the Provincial Government, shall, unless the person so dying otherwise directs, be delivered to persons qualified as hereinafter mentioned, but if such body be claimed within the usual period for interment, by *bonâ fide* friends or relatives, the body shall be delivered to them, or if the person otherwise directed as aforesaid before death, the body shall be decently interred. 7 V. c. 5, s. 1.

Certain bodies may be delivered for dissection.

3. The persons qualified to receive such unclaimed bodies shall be public teachers of Anatomy or Surgery, or private Medical Practitioners having three or more pupils for whose instruction such bodies are actually required : and if there be any Public Medical School in the locality, such School shall have a preferable claim to the body. 7. V. c. 5. s. 2.

To whom such bodies shall be delivered.

4. The Governor may appoint, during pleasure, a person, not being a Medical Practitioner, but being a person holding some Municipal Office and unconnected with any Public or private School of Medicine, to be The Inspector of Anatomy, for each City, Town or Place in which there is any such Public Institution or Medical School. 7 V. c. 5, s. 3.

Governor to appoint Inspectors of Anatomy in certain places.

5. It shall be the duty of every Inspector of Anatomy :

Duties of such Inspectors of Anatomy.

1. To keep a Register of the name, age, sex (and of the birth-place, if it can be ascertained) of all unclaimed bodies given up for dissection ;

2. To keep a Register of all Medical practitioners duly qualified to receive and desirous of receiving bodies for dissection ;

3.

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3. To make an impartial distribution of the bodies in rotation, according to the actual wants of the claimants ;

4. To inspect the several authorized dissection rooms, at least once in every six weeks, and to direct the removal and decent interment of any remains that he deems it advisable to have interred ;

5. To report to the Police Magistrate or the Chief Municipal authority, any infraction of the rules of common decency, or any improper conduct which he knows to have been committed by the teachers or their students ;

6. To keep his Registers open for the inspection of any Medical Practitioner who may desire to inspect them ;

Coroner to give notice of bodies found exposed.

6. The Coroner who presides at the inquest on any body found publicly exposed, and unclaimed by any *bona fide* friend or relative, shall give notice thereof to the Inspector of Anatomy of the locality, if there be one, failing which, he shall cause the body to be interred, as has been customary. 7 V. c. 5, s. 5.

Superintendents of Public Institutions to give notice of deaths in the same.

7. The Superintendent of each Public Institution receiving Government aid, shall immediately give to the Inspector of Anatomy for the locality, notice of the death of any inmate of the Institution who is not known to have any friends or relatives entitled to claim the body. 7 V. c. 5, s. 6.

Register to be kept by such Superintendents.

8. Each such Superintendent shall keep a Register shewing the name, age, sex and birth place (if known) of each person whose body is given over for dissection, and the name of the Medical Practitioner to whom such body is delivered ; and no such Superintendent shall deliver any body, except upon the written order of the Inspector of Anatomy for the locality.

\$5

Emoluments of the Inspectors of Anatomy.

9. The Inspector of Anatomy shall receive ~~One pound five shillings~~ for every body delivered over for dissection, which sum shall be paid to him by the Teacher or Medical Practitioner, on receipt of the order for the delivery of the body.

\$80 }
40 }

Medical Practitioners availing themselves of this Act to give security.

10. Every Medical Practitioner wishing to avail himself of the benefits of this Act, shall appear before one of Her Majesty's Justices of the Peace and the Inspector of Anatomy, and give security, himself in the sum of ~~twenty pounds~~, with two good and sufficient sureties in the sum of ~~ten pounds~~ each, for the decent interment of the bodies after they have served the purposes required : and upon the due fulfilment of these conditions, the Inspector of Anatomy shall deliver to such Medical Practitioner a written authority to open a dissecting room entitled to the benefits of this Act. 7 V. c. 5, s. 9.

C A P . L X X V I I .

An Act respecting Land Surveyors and the Survey of Lands.

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

BOARDS OF EXAMINERS.

1. There shall be two Boards of Examiners for the examination of Candidates for admission to practise as Land Surveyors, one to consist of the Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Quebec for the examination of Candidates for admission to practise as Land Surveyors in Lower Canada, and the other to consist of the said Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Toronto for the examination of Candidates for admission to practise as Land Surveyors in Upper Canada. 14 & 15 V. c. 4, s. 2.

Two Boards of Examiners— one for Lower and one for Upper Canada, to consist of eight members each.

2. Each Member of each of the said Boards shall take an oath of Office, and any three of the Members of either of the said Boards, shall form a quorum. 12 V. c. 35, s. 4. ~~and~~ 14 & 15 V. c. 4, s. 2.

Members to take an oath of office.

3. Each of the said Boards, or a majority thereof, shall from time to time appoint a fit and proper person to be Secretary of the Board, who shall attend the sittings thereof, and keep a record of its proceedings. 14, 15 V. c. 4, s. 5,—12 V. c. 35, s. 5.

A Secretary to each Board.

4. Each of the said Boards shall meet at the Office of the Commissioner of Crown Lands, on the first Monday in each of the months of January, April, July and October, in every year, unless such Monday be a Holy-day, (in which case they shall meet on the day next thereafter not being such holy-day,) and may adjourn such meeting from time to time if they deem it necessary. 14, 15 V. c. 4, s. 6,—12 V. c. 35, s. 6.

Meetings when and where to be held.

LAND SURVEYORS.

5. No person shall, act as a Surveyor of Lands within this Province unless he has been duly authorized to practise as a Land Surveyor according to the provisions of this Act, or had been so authorized before the passing hereof, according to the Laws then in force. 18 V. c. 83, s. 2.

Who may act as Land Surveyors.

APPRENTICES.

APPRENTICES.

Qualification for admission as an apprentice and examination of applicants.

6. No person shall be admitted as an apprentice with any Provincial Land Surveyor, unless he has previously passed an examination before one of the Boards of Examiners, or before one of the Members thereof, or before some Surveyor deputed by the Board for the purpose, as to his knowledge of Vulgar and Decimal Fractions, the extraction of the Square and Cube root, of Geometry, plain Trigonometry, Mensuration of Superficies, and the use of Logarithms, and shall have obtained a Certificate of such examination and of his proficiency, from such Board. 18 V. c. 83, s. 4.

\$10

\$20

\$1.

Examination Fee.

7. Before being so examined he shall pay into the Fee Fund the sum of ~~ten dollars~~ as the fee due by him on such examination, and a further sum of ~~ten shillings~~ to the Secretary for the said Certificate. 18 V. c. 83, s. 4.

Notice to be given by applicants.

8. Applicants for such examination previous to apprenticeship, shall give one month's notice to the Secretary of the proper Board, of their intention to present themselves for examination and pay to such Secretary a fee of ~~five shillings~~ for receiving and entering such notice. 18 V. c. '83, s. 4.

WHO MAY BE ADMITTED TO PRACTICE.

Qualification for admission to practice.

9. No person shall be admitted to practise as a Land Surveyor in and for Upper Canada or Lower Canada, until he has attained the full age of twenty-one years; nor unless he has gone through a course of Geometry, including at least the first six books of Euclid, and of plain Trigonometry, Mensuration of Superficies, Plotting and Map Drawing, and is well versed therein, and is also sufficiently conversant with Spherical Trigonometry and Astronomy, to enable him to ascertain the latitude, and to draw a meridian line, and is conversant with the rudiments of Geology, and has served regularly and faithfully, for and during the space of three successive years, under an Instrument in writing duly executed before two witnesses, or in Lower Canada under a Notarial Acte, as Apprentice to a Land Surveyor for Upper Canada, or Lower Canada, duly admitted and practising therein as such, nor until he has received from the said Land Surveyor a certificate of his having so served during the said period. 20 V. c. 37—12 V. c. 35, s. 3—19 V. c. 13, s. 3.

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Persons admitted in one section of the Province may be admitted to practise in the other—under what circumstances.

10. It shall not be necessary for any person who has been admitted to practise as a Land Surveyor in Lower Canada to serve under an Instrument in writing during three years as aforesaid in Upper Canada, in order to be admitted to practise in Upper Canada, but it shall only be necessary for any such person so to serve during six months of actual practice in the field with a Land Surveyor duly admitted and practising in

in Upper Canada, after which on complying with all the other requirements hereof, he may undergo the examination by this Act prescribed, and the like rule shall apply to persons admitted to practise in Upper Canada who wish to practise in Lower Canada ;

11. It shall not be necessary for any Land Surveyor duly admitted to practise in any of Her Majesty's Dominions other than this Province, to serve under an Instrument in writing during three years as aforesaid, but it shall only be necessary for any such person so to serve during twelve successive months of actual practice, after which on conforming with all the other requirements hereof, he may undergo the examination by this Act prescribed. 12 V. c. 35, s. 3.

Admission of persons previously admitted in any part of Her Majesty's Dominions.

12. No instrument in writing under which any applicant for admission to practise as a Surveyor claims to have served with some practising Surveyor for the period of three years, one year, or six months (*as the case may be*), shall avail to authorize the admission of such applicant, unless such instrument, if executed before witnesses, or a notarial copy thereof if it be a notarial instrument, has been transmitted to the Secretary of the Board before whom the applicant is to be examined, within two months next after the date thereof, nor unless the fee mentioned in the Schedule to this Act, was by the apprentice paid to the Secretary of the proper Board at the time of transmitting the Indenture or Articles; and the said Secretary shall acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and shall carefully keep the same in his office. 18 V. c. 83, s. 3,—14 & 15 V. c. 4, s. 6.

Instruments binding to service to be filed, &c.

13. Any person who, before the passing of this Act, has been duly and *bonâ fide* apprenticed under some agreement in writing to a Land Surveyor duly admitted and practising in and for Upper Canada or Lower Canada, and has served regularly and faithfully as such, shall be entitled to reckon the time he has so served as part of the three years during which, under this Act, he ought to serve before he can be admitted as a Land Surveyor, provided he afterwards completes the remainder of the said period of three years, according to the requirements of this Act; And provided also, that the fact of his having so served before the passing of this Act, be proved on oath, by himself, and by other evidence to the satisfaction of the Board of Examiners, any one of whom may put the requisite questions, and administer the requisite Oath or Affidavit, and such oath or affidavit shall be signed by the person making the same, and remain with the said Board. 12 V. c. 35, s. 3.

The case of persons apprenticed provided for.

14. No applicant for admission as a Land Surveyor claiming to have served previous to the nineteenth day of May, one thousand eight hundred and fifty-five, shall be rejected for mere

Informalities not to vitiate instruments of service.

mere informality in or technical objection to the "instrument in writing" under which he claims to have served, or to the date of the transmission or deposit thereof with the Secretary of the proper Board of Examiners, if he proves to the satisfaction of such Board that he did so serve *bonâ fide*. 18 V. c. 83, s. 5.

15. If any Surveyor dies or leaves the Province, or is suspended or dismissed, his Apprentice may complete his term of Apprenticeship, under an Instrument in writing as aforesaid, with any other Surveyor duly admitted. 12 V. c. 35, s. 3. 10

16. Any Surveyor may, by an Instrument in writing as aforesaid, transfer an Apprentice, with his own consent, to any other Surveyor duly admitted, with whom he may serve the remainder of the term of his apprenticeship. 12 V. c. 35, s. 3.

17. Any person who after having first passed the preliminary examination hereinbefore required for admission to Apprenticeship with a Land Surveyor, has followed a regular course of study in all the branches of education required by law for final admission as a Land Surveyor, through the regular sessions for at least two years, in any University of this Province wherein there may be organized a complete course of instruction, practical as well as theoretical, in Civil Engineering, Natural Philosophy, Geology, and the other branches of education required by law for such admission as a Land Surveyor, and who has thereupon received from such University, after due examination, a Degree or Diploma of Qualification as a Civil Engineer and Land Surveyor, may be received as an Apprentice by any Land Surveyor in Upper or Lower Canada, and shall thereupon be only holden to serve as such Apprentice during twelve months of actual service, or, if he has passed through such University course of study in less time than two full years, then for such time of actual service as with the period spent by him in such University course of study suffices to make up the full time of three years; and after such actual service, such person shall, subject to the other provisions of this Act, have the same right to present himself for, and to undergo the examination required by law, and, if found qualified, then to be admitted to practise as a Land Surveyor in Upper or Lower Canada, as the case may be, as if he had served the full three years' Apprenticeship otherwise required by law. 20 V. c. 37, s. 1. 15 20 25 30 35 40

18. Every person desiring to be examined before either of the said Boards as to his qualification to be admitted as a Land Surveyor, shall give due notice thereof in writing to the Secretary of the Board, at least one month previous to the meeting thereof. 12 V. c. 35, s. 7,—14, 15 V. c. 4, s. 3. 45

19. Before any person is admitted to practise as a Land Surveyor in Upper Canada, or for Lower Canada, he shall be publicly examined with respect to his ability, and the sufficiency of his instruments, by one of the said Boards of Examiners, as the case may be, and moreover the further to promote the collection of geological information, all persons who apply to be admitted as Provincial Land Surveyors, shall be examined in the rudiments of Geology; and the Director of the Geological Survey shall, with that object, be a member of both the Boards of Examiners. 19 V. c. 13, s. 3,—12 V. c. 35, s. 4.

The examination of candidates for admission.

20. The said Examiners shall cause all persons applying for admission to practise as such Land Surveyors, to produce satisfactory Certificates as to character for probity and sobriety, and to perform such practical operations in their presence as they may require, previous to their giving him their Certificate, and to answer such questions on oath, (which oath any one of the Examiners may administer) with regard to the actual practice of such applicant in the field and with regard to his instruments. 12 V. c. 35, s. 4.

The Board to require certificates of good conduct, &c.

21. If the said Examiners are satisfied of his ability as hereinbefore provided, and of his having complied with all the requirements of this Act, and of the sufficiency of his surveying instruments, they shall give him a Certificate thereof, and of his being admitted as a Land Surveyor, in the form following: 12 V. c. 35, s. 4.

If the examiners approve of the candidate they are to grant him a certificate.

This is to certify to all whom it may concern, that A. B., of _____ in the County (or District) of _____ hath duly passed his Examination before the Board of Examiners, and hath been found qualified to fill the office and perform the duties of a Provincial Land Surveyor in and for Upper (or Lower) Canada, he having complied with all the requirements of the Law in that behalf. Wherefore the said A. B., is admitted to the said Office, and is by Law authorized to practise as a Land Surveyor in Upper (or Lower) Canada.

Form of the certificate.

In witness whereof, We have signed this Certificate at _____ in the County (or District) of _____ Province of Canada, the _____ day of _____ one thousand eight hundred and _____

Signature of the President, C. D.,
Signature of the Secretary, E. F.

And such Certificate shall, on his complying with the other requirements of this Act, enable him to practise as a Land Surveyor in and for Upper Canada or in and for Lower Canada, as the case may be. 12 V. c. 35, s. 4. and Schedule.

The certificate shall entitle the party to practise.

Ital

Licentiates to give bonds and take the oath of allegiance and of office.

\$1,000

22. Each applicant, after receiving the above mentioned Certificate, shall, with two sufficient sureties to the satisfaction of the said Board of Examiners, enter into a bond jointly and severally in the sum of ~~two hundred and fifty pounds currency~~ ⁵ to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners who are hereby empowered to administer the same: 12 V. c. 35, s. 9.

“ I, A. B. do solemnly swear (or affirm, as the case may be) ¹⁰ that I will faithfully discharge the duties of a Land Surveyor, agreeably to law, without favour, affection or partiality. So help me God.”

Where oaths to be deposited.

23. The said oath of allegiance and of office, shall, if taken in Lower Canada, be deposited in the office of the Prothonotary of the Superior Court in the District of Quebec; and if taken in Upper Canada, in the Registry Office in the County of York. 14 & 15 V. c. 4, s. 5. ¹⁵

Where bonds to be deposited.

24. The said bond shall be deposited and kept in the manner by law prescribed with regard to the bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof; and the certificate shall be registered in the office of the Registrar of the Province. 12 V. c. 35, s. 9. ²⁰

When the Board may suspend licensed Surveyors.

25. The Board of Examiners may in their discretion suspend or dismiss from the practice of his profession, any Land Surveyor whom they may find guilty of gross negligence or corruption in the execution of the duties of his office: but the Board shall not suspend or dismiss such Land Surveyor, without having previously summoned him to appear in order to be heard on his defence, nor without having heard the evidence, offered either in support of the complaint or in behalf of the Surveyor inculpated. 12 V. c. 35, s. 10. ²⁵

Fees to be paid to the members of the Boards.

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26. The Commissioner of Crown Lands shall pay to each Member of either of such Boards not being a salaried Officer of the Government, who attends any Examination, the sum of ~~one pound five shillings~~ ³⁵ for each day's attendance, and charge the same in his account as part of the expenses of his Office. 18 V. c. 83, s. 1. ³⁰

BOUNDARY LINES.

The establishment of boundary lines regulated.

27. All boundary or division lines legally established, and ascertained under the authority of any Ordinance or Act heretofore or by the first chapter of the Consolidated Statutes of Upper Canada repealed, shall remain good, and all other acts and things legally done and performed under the authority of the ⁴⁰

the said Ordinance and Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding such repeal, and all prosecutions and all actions or suits at law or in equity actually commenced before the passing of this Act, under the provisions of any former Ordinance or Act, may be continued, tried and determined, and execution may be done therein, as if this Act had not been passed. 12 V. c. 35, s. 1.

28. The Standard of English Measure of length, and the Standard of the old French Measure of length, compared with and corrected by the Standards for such Measures established in this Province, and procured by the Commissioner of Crown Lands for the purpose of comparing therewith the Standards to be kept by each Surveyor as hereinafter provided, shall be deposited as follows, namely, the Standard English Measure of Length shall be deposited with the Secretary of the Board of Examiners at Toronto, and the Standard French Measures of Length, and a copy of the said Standard English Measures of Length, (which copy shall be hereafter used as a standard for the purposes of this Act) shall be deposited with the Secretary of the Board of Examiners at the City of Quebec, and the said Secretaries respectively, under such instructions as they from time to time receive from their respective Boards, shall examine, test and stamp Standard Measures of Length for the Surveyors bringing the same for examination as the Commissioner of Crown Lands may do and with the same effect, and for each measure so examined and stamped such Secretary may demand and receive ~~Two Shillings and Six Pence Currency.~~ 14 & 15 V. c. 4, s. 8.

The standards of measure regulated.

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29. Every Land Surveyor duly admitted, and practising, for Upper or Lower Canada, shall procure and shall cause to be examined, corrected and stamped or otherwise certified by the Commissioner of Crown Lands, or some one deputed by him for that purpose, or by one of the Secretaries aforesaid, a Standard Measure of length, under the penalty of the forfeiture of his License or Certificate, and shall, previously to proceeding on any survey verify by such standard, the length of his chains and other instruments for measuring. 12 V. c. 35, s. 13.

Surveyors to procure stamped standard measures.

30. Every chain-bearer, whether acting in Upper or in Lower Canada, shall, before he commences his chaining or measuring, take an oath or affirm, to act as such justly and exactly according to the best of his judgment and abilities, and to render a true account of his chaining or measuring to the Surveyor by whom he has been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law, that is to say, within the degree of Cousin German, which oath the Surveyor employing such chain-bearer is

Chain-bearers to be sworn and nature of the oath.

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is hereby authorized and required to administer ; nor shall any person related or allied to any of the parties within the said degree, be employed as a chain-bearer on any survey. 12 V. c. 35, s. 11.

Penalty for obstructing land Surveyors in the execution of surveys.

31. If any person or persons, in any part of this Province, interrupts, molests or hinders any Land Surveyor, while in the discharge of his duty as a Surveyor, such person or persons shall be guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding ~~five pounds~~, without prejudice to any civil remedy which such Surveyor or any other party may have against such offender or offenders, in damages by reason of such offence. 12 15 V. c. 35, s. 14.

When Land Surveyors may pass over private lands.

32. Any Land Surveyor, when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearings of any township line, concession or range line or other government line or side line, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person. 12 V. c. 35, s. 14.

The course to be adopted by Surveyors to ascertain boundary lines when doubtful, &c.

33. When any Surveyor is in doubt as to the true boundary or limit of any Township, Seignior, Concession, Range, Lot or Tract of Land which he may be employed to survey, and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person does not willingly appear before and be examined by such Surveyor, or does not willingly produce to him such writing, plan or document, such Surveyor or the party employing him, may file in the office of the County Court, if the survey be in Upper Canada, or of the Circuit Court, if the survey be in Lower Canada, a *Præcipe* for a *Subpæna* or *Subpæna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a *Subpæna* to issue accordingly, commanding such person to appear before the Surveyor, at a time and place to be mentioned in the said *Subpæna*, and to bring with him any writing, plan or document mentioned or referred to therein. 18 V. c. 83, s. 7.

May subpoena witnesses.

How to be served.

34. Such *Subpæna* shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some grown person of his family at his residence, exhibiting to him or to such grown person, the original. 18 V. c. 83, s. 7.

35. If the person commanded to appear by such *Subpœna*, after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor at the time and place appointed in the *Subpœna*, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, the person so summoned shall be deemed guilty of a contempt of the Court out of which the *Subpœna* issued, and an Attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of such Judge. 18 V. c. 83, s. 7.

Consequences
of disobeying.

Witness liable
to attachment.

SPECIAL PROVISIONS RELATING TO LOWER CANADA.

36. Every Land Surveyor who surveys or admeasures lands in Lower Canada, shall, when thereunto required by the parties, place one or more boundary marks of stone, either to mark the boundary of any property or to show the course of any line of division, of which boundary marks, the length above ground shall be six inches at least, between Seigniors or between Co-Seigniors, or between two Townships, or between a Seigniori and a Township, or between the Waste Lands of the Crown and a Seigniori or Township, and at least three inches above the ground between persons holding grants in a Seigniori or Township, and at least twelve inches in the ground in every case; and under such boundary marks he shall place pieces of brick, or delf, or earthenware, slag of iron, or broken glass, and in the country parts and open ground, before every boundary mark, a post of squared timber. 12 V. c. 35, s. 15.

Surveys in
Lower Canada
provided for.

37. Every such Land Surveyor employed in any Survey in Lower Canada, as soon as his operations have been finished, if he has placed any boundary mark, or if thereunto required by any party employing him, or by the Court under whose order he has acted, shall draw up a *Procès Verbal*, in which he shall on pain of nullity and under the penalty imposed for any contravention of the last Section of this Act, insert the date of the said *Procès Verbal*, and shall mention by the order of what Court or at whose desire and at what time or times he has operated, the residence of the parties and their additions, and his own name and residence. 12 V. c. 35, s. 16.

A *Procès Verbal*
to be drawn
up.

Under penal-
ty.

38. In such *Procès Verbal* the Surveyor shall, under the penalty last aforesaid, faithfully detail 1--what he has done according to the nature of the survey required of him, stating whether any and what title deeds were produced to him, according to which he may have guided his operations; 2--what is the form and the area of ground which he has surveyed; 3--what chainings he has performed, and what lines he has drawn, gone over or verified; 4--what remarkable fixed object his lines may

Contents of
such *Procès Verbal*.

may have intersected or run close to ; 5—the true and also the magnetical course by his instrument of any lines he has drawn or verified, and the day and place, when and where the variation of such instrument had been then last ascertained by him, and whether it was so ascertained by the public meridian lines or marks hereinafter mentioned, (if any such lines or marks are established) or by direct astronomical observation. 12 V. c. 35, s. 16.

To state what material has been placed under boundary marks **39.** He shall also state what he has put under any boundary marks he may have placed, their respective distances from each other, (when there are several,) and their distance from any remarkable and fixed object. 12 V. c. 35, s. 16.

The *Procès-Verbal* to be signed by the parties. **40.** Such Land Surveyor shall, on pain of nullity, and of the penalty last aforesaid, cause such *Procès Verbal* to be signed by the parties if they are present and able and willing to sign, and if they or any of them be not present or be unable or unwilling to sign, mention shall be made of the fact ; and any party assenting to the *Procès Verbal*, but unable to sign, shall make his mark. 12 V. c. 35, s. 16.

And by the Surveyor, who shall preserve them and give copies. **41.** Such *Procès Verbal* shall be signed by the Land Surveyor and by two witnesses, the said *Procès Verbal* being first read aloud in the presence of all the persons signing the same, and all such facts shall be mentioned in the *Procès Verbal*, on pain of nullity and under the penalty last aforesaid, and he shall preserve the same as a minute, of which he shall give copies to the parties concerned. 12 V. c. 35, s. 16.

ne | The Minutes not to be erased or altered, but to be referred to in the *Procès-Verbal*. **42.** The Surveyor shall not enter any interlineations nor make any erasure in his minutes, nor in the copies thereof, but shall mention the number of words struck out, and also the number of marginal references in each of his minutes, or copies of *Procès Verbaux*, which references shall, in the minute, be signed with the initials of the parties, witnesses and Land Surveyor, or of such of them as can sign, and in any copy by the initials of the Land Surveyor, otherwise they shall be null and void. 12 V. c. 35, s. 16.

All *Procès-Verbaux* existing on the 2d August, 1851, confirmed. **43.** Many *Procès-Verbaux* of Survey in Lower Canada having been drawn up in a manner substantially correct, but not in the precise form required, every *Procès-Verbal* existing in Lower Canada on the Second of August, 1851, which substantially contains, the particulars requisite for the full understanding of the Survey or operation to which it relates, and of the doings of the Surveyor, and the intention of the parties interested with regard to the same, shall be held to be authentic and valid, and shall have effect according to the tenor thereof, whatever be the form in which the same may have been drawn up. 14, 15 V. c. 4. s. 17.

44.

44. It having happened that boundary stones and other boundary marks have been placed by Surveyors, which have not the dimensions, or are not of the materials, or are not accompanied by the marks prescribed by law; Every such boundary mark in Lower Canada, placed by a Surveyor before the thirtieth of August, 1849, and referred to in his *Procès Verbal*, shall be held to be effective and valid, if its place can be ascertained from such *Procès Verbal*, whatever be the form, dimensions or material thereof. 12 V. c. 35, s. 18, & 14, 15 V. c. 4, s. 7.

Boundary marks placed before the 30th August, 1849, confirmed.

45. Nothing contained in the two Sections last preceding, shall be construed to render valid or effective any *Procès Verbal*, or boundary made or placed since the Second of August 1851 or the 30th August, 1849, respectively, and with regard to which the absolute requirements of the law from those periods, respectively, on pain of nullity, have not been complied with, but such *Procès Verbal* or boundary shall be null and void and of no effect, except only that in places where stones of the proper size cannot be procured, (which fact shall appear by the *Procès Verbal*.) boundary marks of wood or other material may be used, and they shall have the same effect as the boundary marks of stone mentioned in this Act. 12 V. c. 35, s. 18.

The two last sections not to apply to operations performed since the 2d August 1851 or 30th August, 1849, respectively.

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46. In Cities, Towns and places in Lower Canada where, from local circumstances, boundary stones or marks cannot be placed, the Surveyor shall in his *Procès Verbal* mention the fact, and shall fix the boundaries and describe his operations, by referring to streets, neighbouring properties and other fixed objects, so as to enable any other Surveyor from such *Procès Verbal*, to repeat the operations, and ascertain the boundaries, points, lines and other particulars therein mentioned. 12 V. c. 35, s. 19.

The case of land marks in cities and towns provided for.

47. The Surveyor employed to make any Survey in the Townships of Lower Canada shall govern himself by the Surveys made under the plans and instructions issuing from the Office of the Commissioner of Crown Lands, or other Officer performing the duties of Surveyor General; and whenever it happens that the posts or boundary marks between any lots or ranges of lots have been effaced, removed or lost, such Surveyor may examine witnesses on oath, (which oath he is hereby authorized to administer), for the purpose of ascertaining the former boundaries, but if the same cannot be ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or boundaries, and divide such distance into such number of lots as the same contained in the original Survey, of a breadth proportionate to that intended in such original Survey, as shown on the plan and field-notes thereof of record in such Public Office as aforesaid, and when any part of any Concession or Range Line, intended in the original Survey to be straight, has been obliterated or lost, then

By what surveyors in surveys in townships shall be governed.

the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or boundaries as he may be required to plant in the line so ascertained, and the limits of each lot so found shall be the true limits thereof. 12 V. c. 35, s. 20.

The Governor may direct a meridian line to be marked in or near certain cities or towns in L. C.

48. The Governor may, if he at any time deems it expedient, direct a meridian line to be properly drawn and marked, or the bearings between certain fixed points and objects to be so ascertained as to enable a Surveyor thereby to ascertain the variation of his instrument from the meridian, in or near the Cities of Quebec and Montreal, and the Town of Three-Rivers, and the Towns of Sherbrooke and New Carlisle, by some Land Surveyor whom the Governor may appoint, and by which the Land Surveyors, operating in such Districts, may verify their instruments when necessary. 12 V. c. 35, s. 21.

What shall be measure of land in Lower Canada.

49. The measure for Land in Lower Canada shall be the same as it was before the Year of Our Lord one thousand seven hundred and sixty, in all grants of Seigniories, and in the Concessions which have therein been made up to the present time, but in the Townships of Lower Canada the measure for Land shall be English measure. 12 V. c. 35, s. 22.

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Penalty for placing other materials than as required by the 36th section.

50. Every Land Surveyor who, in Lower Canada, puts as evidence or indications of his boundary marks, any other matter than is ordered by the thirty-sixth Section of this Act, shall for each offence incur a penalty of ~~Five pounds~~ 12 V. c. 35, s. 23.

Surveyors to preserve in regular order their Procès-Verbaux.

51. Every Land Surveyor practising in Lower Canada shall collect and place in regular and due order, all and every the minutes of Procès-Verbaux that may have been, or may be drawn up by him, in the order of time in which such Procès-Verbaux have been drawn up; and shall collate and put up minutes of his Procès-Verbaux of every year in separate bundles, folded and covered with strong paper in the manner of a register, on the back of which shall be endorsed the general contents of each bundle, and he shall make a repertory and index thereto. 12 V. c. 35, s. 24.

Superior

When Surveyor dies the disposal of his minutes, plans, &c., provided for.

52. When any Land Surveyor practising in Lower Canada dies, his registers, minutes, plans and other papers relative to his professional acts, and signed by him, shall be holden to be public records of the Court of Queen's Bench within the jurisdiction of which he may have acted as a Land Surveyor, and shall be deposited in the Office of the said Court, for the benefit of all persons therein concerned--who shall have free access thereto; and the Clerk or Clerks of the said Court shall deliver copies thereof to such persons as may require them, upon their paying the usual and legal fees; and the widow, or

* Note. - Ct. Superior Court.

or if there be no widow, the heirs of the Land Surveyor so deceased, and whose registers, minutes, plans and other papers have been so deposited, shall be entitled to an annual correct account of the fees received by the said Clerk or Clerks, for the copies so delivered, and to receive one half thereof, for and during the space of five years from the day of the decease of such Land Surveyor. 12 V. c. 35, s. 25.

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53. The provisions contained in the fifty-eighth to the sixty-fifth sections of this Act, both included, shall extend to, and apply as well to the lands held in free and common soccage in the Townships of Lower Canada as to lands in Upper Canada, and the powers in the said sections conferred upon County, Township, City, Town and Village Councils for carrying out the purposes of said sections in Upper Canada, shall be vested in, and exercised by Township, Parish, Town and Village Councils in Lower Canada, as the case may be, within which the lands, to which such provisions apply, may be situated; And the expenses of any survey made under the provisions of the said sections shall be paid by the Secretary-Treasurer of the Township, Parish, Town or Village Council within which such Survey is made, upon the certificate and order of the Commissioner of Crown Lands. 18 V. c. 83, s. 11.

Sections 53th to 65th of this Act, extended to lands in the townships of L. C.

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Costs, how paid.

SPECIAL PROVISIONS RELATING TO UPPER CANADA.

54. Stone monuments or monuments of other durable materials, shall be placed at the several corners, governing points or off-sets of every Township already surveyed or after this Act takes effect from time to time surveyed in Upper Canada, and also at each end of the several Concession Lines of such Townships; and lines drawn in the manner hereinafter prescribed from the monuments so erected, shall be taken and considered to be the permanent boundary lines of such Townships and Concessions, respectively. 12 V. c. 35, s. 26.

Stone monuments may be placed at certain points in Townships in U. C.

55. The monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands. 12 V. c. 35, s. 27.

To be placed under the direction of the Commissioner of Crown Lands.

56. The courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be the true courses and lengths of the boundary lines of the said Townships and Concessions, whether the same do or do not, on actual survey, coincide with the courses and lengths in any Letters Patent of Grant or other Instrument mentioned and expressed in respect of such boundary lines. 12 V. c. 35, s. 28.

Boundaries ascertained as aforesaid in U. C., to be deemed the true ones.

57. It shall not be necessary for the Commissioner of Crown Lands, to proceed to carry the provisions of the three last preceding Sections of this Act into execution, until an application for

Monuments not to be placed in U. C., except on the application for

Application of the
Municipal
Council.

for that purpose has been made to the Governor by the Council of the County, in which the Township or Townships interested may be situate, and which Council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied. 12 V. c. 35, s. 30.

Recital.

58. And whereas in several of the Townships in Upper Canada, some of the Concession lines, or parts of the Concession lines, were not run in the original survey performed under competent authority, and the surveys of some Concession lines or parts of Concession lines have been obliterated, and owing to the want of such lines the inhabitants of such Concessions are subject to serious inconvenience; therefore the County Council of the County in which any Township in Upper Canada is situate, may, on application of one half of the resident landholders in any Concession, (or may without such application) make application to the Governor, requesting him to cause any such line to be surveyed, and marked by permanent stone boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each Concession or part of a Concession interested. (*) 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

In what cases the Municipal Council may apply to have monuments placed.

As to the adjacent concessions.

59. The lines shall be so drawn as to leave each of the adjacent Concessions of a depth proportionate to that intended in the original survey. 12. c. 35, s. 31,—22 V. c. 99, s. 258.

To be permanent boundary lines.

60. The lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be the permanent boundary lines of such Concessions or parts of Concessions to all intents and purposes of law whatsoever. 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

Expenses to be estimated and provided for.

61. The Council shall cause to be laid before them, an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such Concession or part of a Concession, in the same manner as any sum required for any other purposes authorized by law may be levied. 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

Legal effect of the operation.

Expenses to be paid to the Government.

62. All expenses incurred in performing any survey or placing any monument or boundary under the provisions of the preceding 54th, and following sections shall be paid by the County

(*) Note.—The 57th and the 58th Sections seem superfluous now that each Local Municipality may act for itself. See 18 V. c. 83, s. 8,—22 V. c. 99, s. 258, but see ss. 63 and 65.

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County Treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands. 12 V. c. 35, s. 31.

63. Whenever the Municipal Council of any Township, City, Town or Incorporated Village in Upper Canada adopts a resolution on application of one half the resident land-holders to be affected thereby, that it is desirable to place stone or other durable monuments at the front or at the rear, or at the front and rear angles of the lots in any Concession or Range or part of a Concession or Range in their Township, City, Town or Incorporated Village, such Municipal Council may make application to the Governor, in the same manner as is provided in the sixth and three following sections of this Act, praying Him to cause a survey of such Concession or Range or part of a Concession or Range to be made, and such boundaries to be planted, under the authority of the Commissioner of Crown Lands.

Municipal Councils may cause the boundaries of lots in any concession, &c., to be ascertained and marked.

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64. The person or persons making such survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in such Concession or Range, or part of a Concession or Range, and the limits of each lot so ascertained and marked shall be the true limits thereof.

To be marked by stone or some other durable monuments to be placed at the angles.

65. The cost of survey shall be defrayed in the manner prescribed by the sixty-first and sixty-second sections of this Act.

How cost to be defrayed.

66. All boundary lines of Townships, Cities, Towns and Villages, all Concession lines, governing points, and all boundary lines of Concessions, sections, blocks, gores and commons, and all side-lines and limits of lots surveyed, and all posts or monuments, marked, placed or planted at the front angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada, or under the authority of the Executive Government of this Province, shall be the true and unalterable boundaries of all and every such Townships, Cities, Towns, Villages, Concessions, Sections, Blocks, Gores, Commons, and lots or parcels of land, respectively, whether the same upon admeasurement be found to contain the exact width, or more or less than the exact width mentioned or expressed in any Letters Patent, Grant or other Instrument in respect of such Township, City, Town, Village, Concession, Section, Block, Gore, Common, lot or parcel of land. 12 V. c. 35, s. 32.

Boundaries placed under the authority of the Government to be deemed the true ones, &c.

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67. Every Township, City, Town, Village, Concession, Section, Block, Gore, Common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed at the front angles thereof

Townships, &c., to comprise all the space included within their boundaries.

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thereof respectively, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof notwithstanding. 12 V. c. 35, s. 32.

As to aliquot parts of Townships, &c.

68. Every patent, grant or instrument, purporting to be for any aliquot part of any such township, city or town, village, concession, section, block, gore, common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument. 12 V. c. 35 s. 32. 5 10

Road allowances in Cities, &c., to be public highways.

69. In every City, Town or Village in Upper Canada, which has been surveyed by the authority aforesaid, all allowances for any road, street, lane or common laid out in the original survey of such City, Town or Village, shall be public highways and commons; and all posts or monuments placed or planted in the original survey of such City, Town or Village, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of every such road, street, lane, lot and common; and all Land Surveyors, employed to make surveys in such City, Town or Village shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in Townships. 12 V. c. 35, s. 33. 20 25

Recital.

70. Whereas many Townships, tracts or blocks of land in Upper Canada were granted by the Crown to companies and individuals before any surveys had been made therein, and such Townships, tracts or blocks of land were afterwards surveyed by the owners thereof--All such surveys of such Townships, tracts or blocks of land, shall be original surveys thereof, and shall have the same force and effect as though the said original surveys and plans thereof had been made by the authority aforesaid; and all allowances for roads or commons surveyed in such Townships, tracts or blocks of land, and laid down on the plans thereof, shall be public highways and commons; and all lines run and marked in such original surveys, and all posts or monuments planted or placed in such road, concession, lot of land or common, shall be the true and unalterable lines and boundaries of such allowance for road, common or lot of land, and all Land Surveyors, when employed to make surveys in such Townships, tracts or blocks of land, shall follow and pursue the same rules and regulations in respect of such Townships, tracts or blocks of land, and the original surveys thereof, as they are by law required to follow and pursue in all Townships, tracts or blocks of land surveyed by the authority aforesaid. 12 V. c. 35, s. 34. 30 40 45 50

As to lands granted in blocks and subsequently surveyed by the grantees.

71. The course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be the course of the division or side lines throughout the several Townships or Concessions in Upper Canada, respectively, provided that such division or side lines were intended, in the original survey performed under such authority as aforesaid, to run parallel to the said boundary. 12 V. c. 35, s. 35.

Governing lines declared.

72. Every Surveyor shall run all division or side-lines, which he may be called upon by the owner or owners of any lands to survey, so as to correspond with and be parallel to that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided such division or side-lines were intended, in the original survey performed under such competent authority as aforesaid to run parallel to the said boundary. 12 V. c. 35, s. 35.

All side lines to be run parallel to governing lines.

73. When that end of a concession, from which the lots are numbered, is bounded by a Lake or River, or other natural boundary, or when it has not been run in the original survey performed under competent authority as aforesaid, or when the course of the division or side-lines of the lots therein was not intended in the original survey performed as aforesaid, to run parallel to such boundary, the said division or side-lines shall run parallel to the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be parallel thereto, and that such boundary line was run in the original survey. 12 V. c. 35, s. 35.

Course to be adopted when concession bounded by lakes or rivers.

74. When in the original survey, performed under competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be parallel to the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the concession from which the lots are numbered, as is stated in the plan and field-notes of the original survey, of record in the Office of the Commissioner of Crown Lands, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey; or if neither of the aforesaid boundaries of the concession were run in the original survey, or if the concession be bounded at each end by a Lake or River or other natural boundary, then at such angle with the course of the line in front of the said concession, as is stated in the plan and field-notes aforesaid. 12 V. c. 35, s. 35.

When division or side lines not intended to run parallel to the side lines at either end of a concession.

75. If any division or side-line between lots, or proof-line intended to be parallel to the division or side-lines between lots, was drawn in any such concession in the original survey thereof,

When a division or proof line has been run between

lots, the same shall govern. thereof, the division or side-lines between the lots there- in shall be drawn parallel to such division or side-line or proof-line. 12 V. c. 35, s. 35.

Where there are two of such lines, the line nearest the end of the concession, from which the lots are numbered, to govern to the next of such lines.

76. When two or more such division or side-lines or proof-lines were drawn in the original survey of such concession, that division or side-line or proof-line which is nearest to the boundary of the concession from which the lots are numbered, shall govern the course of the division or side-lines of all the lots in such concession between the boundary of the concession from which the lots are numbered and the next division or side-line or proof-line drawn in the original survey, and such last mentioned line or proof-line shall govern the course of the division or side-lines of all the lots up to the next division or side-line or proof-line drawn in the original survey, or to the boundary of the concession towards which the lots are numbered, as the case may be. 12 V. c. 35, s. 35.

How lines to be governed in Townships laid out in sections under the O. C. of the 27th March, 1829.

77. In all those Townships in Upper Canada, which in the original survey were divided into sections, agreeably to an Order in Council bearing date the Twenty-seventh day of March, one thousand eight hundred and twenty-nine, the division or side-lines in all concessions, in any section shall be governed by the boundary lines of such section, in like manner as the division or side-lines in Townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate. 12 V. c. 35, s. 35.

What shall be deemed the front of a concession in certain cases.

78. The front of each concession in any Township in Upper Canada, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that end or boundary of the concession which is nearest to the boundary of the Township, from which the several concessions thereof are numbered. 12 V. c. 35, s. 36.

Townships bounded in front by rivers or lakes, the lines to be drawn from posts in rear of the concession; when.

79. In those Townships in Upper Canada which are bounded in front by a river or lake where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side-lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, parallel to the governing line determined as aforesaid to the river or lake in front, and when the line in front of any such concession was not run in the original survey, the division or side-lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the concession thereof parallel to the governing line determined as aforesaid to the

When the front line of any concession was not run in the original survey.

* NOTE.—It is conceived that the words "front of the concession" in the above would be more accurate than the words "rear line."

Translator!

front line of the concession in rear

the depth of the concession---that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth or if they were not so intended, then to the proportionate depth intended in the original survey, as shown on the plan and field-notes thereof of record in the office of the Commissioner of Crown Lands, having due respect to any allowance for a road or roads made in the original survey ; and a straight line joining the extremities of the division or side-lines of any lot in such concession drawn as aforesaid, shall be the true boundary of that end of the lot which was not run in the original survey. 12 V. c. 35, s. 36.

80. In those Townships in Upper Canada in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands have been described in half lots, the division or side-lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be the front of its respective half of such concession, and a straight line joining the extremities of the division or side-lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. 12 V. c. 35, s. 37.

Fronts of concessions in certain other cases, depths of lots, &c.

81. And whereas some of the double front Concessions in the Townships in Upper Canada, are not of the full depth, and doubts have arisen as to the manner in which the division or side-lines in such concessions should be established :---Therefore in such concessions the division or side-lines shall be drawn from the posts at both ends thereof, to the centre of the concession, as provided in the last preceding section of this Act, without reference to the manner in which the lots or parts of lots in such concession have been described for Patent. 18 V. c. 83, s. 9.

Mode of drawing lines in double fronted concession.

82. In those Townships in which each alternate concession line only has been run in the original survey, but with double fronts as aforesaid, the division or side-lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession, that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the office of the Commissioner of Crown Lands ; and each alternate concession line as aforesaid shall be the front of each of the two concessions abutting thereon. 12 V. c. 35, s. 38.

As to concessions in cases where alternate concession lines only have been run.

As to lands in adjoining concessions included in the same grant.

83. In all cases where any Crown Patent of Grant, or other Instrument, has been issued for several lots or parcels of land in concessions adjoining each other, the side-lines or limits of the lots or parcels of land therein mentioned and expressed, shall recommence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line, through several concessions, unless the side-lines or limits, when run as aforesaid, intersect the corresponding post or monument in the front of the concession next in rear, that is to say, each such lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument. 12 V. c. 35, s. 44.

Rule when a line is to be drawn parallel to a governing line.

84. Every Land Surveyor employed to run any division-line or side-line between lots, or any line required to run parallel to any division-line or side-line in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done, but the course cannot at such time be ascertained, determine by astronomical observation, the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division-line or side-line as aforesaid, truly parallel to such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field-notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line, which may not be straight. 12 V. c. 35, s. 39.

Case where the original post or monument cannot be found, provided for in Upper Canada.

85. In all cases when any Land Surveyor is employed in Upper Canada to run any side-line or limits between lots, and the original post or monument from which such line should commence cannot be found, he shall obtain the best evidence that the nature of the case admits of, respecting such side-line, post or limit: but if the same cannot be satisfactorily ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field-notes thereof, of record in the office of the Commissioner of Crown Lands; and if any portion of the line in front of the concession in which such lots are situated, or boundary of the Township in which such concession is situated, has been obliterated or lost, then the Surveyor shall run a line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act, and shall plant all such intermediate posts or

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or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be the true limits thereof. 18 V. c. 83, s. 10.

86. In those townships in Upper Canada in which the side lines of the lots were drawn in the original survey, every Provincial Land Surveyor, when called upon to determine any disputed boundary in any of such townships, shall ascertain and establish the division or side-lines of the lots, by running such side-lines as they were run in the original survey, whether the same were in the original survey run from the front of the concession to the rear, or from the rear to the front of the concession to the front, and shall adhere to all posts, limits or monuments, planted on the division or side-lines in the original survey, as being or designating corners of lots under such original survey. 20 V. c. 73, s. 1.

If side lines were drawn in original survey, the same to be adhered to.

87. And whereas Towns and Villages in Upper Canada have been or may be surveyed and laid out by companies and individuals, and by different owners of the lands comprising the same, and lands have been or may be sold therein according to the surveys and plans thereof, therefore all allowances for roads, streets or commons, which have been surveyed in such Towns and Villages in Upper Canada, and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for roads, streets or commons, have been or may be sold to purchasers, shall be public highways, streets and commons; and all lines which have been or may be run, and the courses thereof given in the survey of such Towns and Villages, and laid down on the plans thereof, and all posts or monuments which have been or may be placed or planted in the first survey of such Towns and Villages to designate or define any such allowances for roads, streets, lots or commons, shall be the true and unalterable lines and boundaries thereof respectively. 12 V. c. 35, s. 41,---See 13, 14 V. c. 15.

As to allowances for roads or streets in Towns or Villages laid out by private owners.

88. No lot or lots of land in such Towns and Villages shall be so laid out as to interfere with, obstruct, shut up, or be composed of any part of any allowance for road, common or commons, which were surveyed and reserved in the original survey of the Township or Townships wherein such Towns or Villages are or may be situate.

Town or village lots not to be laid out so as to interfere with any allowance for roads.

89. Any owner or owners of any such Town or Village, or the owner or owners of any original division thereof, may amend or alter the first survey and plan of any such Town or Village, or any original particular division thereof, provided no lots of land have been sold fronting on or adjoining any street or streets, common or commons where such alteration is made.

When first surveys or plans may be altered.

No private survey valid unless made by a licensed Surveyor.

Original owners or their heirs to deposit plan of towns or villages laid out by them.

90. No such private survey shall be valid, unless performed by a duly authorized Surveyor. 12 V. c. 35, s. 41.

91. The original owner or owners of the lands forming the site of any Town or Village in Upper Canada, mentioned in the four last preceding sections of this Act, or the agent or agents, heirs or other legal representatives of the original owner or owners of any such Town or Village, or any original division thereof, shall, (if not already done) provide and deposit in the Registry Office of the County wherein such Town or Village is situate, a fair and correct plan or map of such Town or Village, or original division thereof, on a scale of not less than one inch to every four chains, and shall lay down thereon all roads, streets, lots and commons within the same, with the courses and width thereof respectively, and the width and length of all lots, and the courses of all division-lines between the respective lots within the same, together with such information as will show the lots, concessions, tracts or blocks of land of the Township wherein such Town or Village is situate. 12 V. c. 35, s. 42.

Plan to be certified.

92. Every such plan or map of every such Town or Village or original division thereof, shall be certified by some Land Surveyor, and also by the original owner or owners thereof, or the legal representative or representatives of such owner or owners, as being a correct plan or map of the same. 12 V. c. 35, s. 42.

Copies of registered plans, to be evidence of the originals.

93. Every copy of such plan or map obtained from such Registry Office, and certified as correct by the Registrar or Deputy Registrar of such County, shall be taken as evidence of the original plan and survey of such Town or Village in all Courts of Record and in all other Courts in Upper Canada. 12 V. c. 35, s. 42.

Duty of the Registrar in whose office any such plan is deposited.

94. Whenever any such plan or map of any such Town or Village, in Upper Canada, or original division thereof, has been made and deposited in the Registry Office of the County wherein the lands are situate, the Registrar of such County shall make a record of the same, and enter the day and year on which the same is deposited in his office; and for such service the said Registrar shall be entitled to charge the same fees, as by law established for making a record of any other document, which is by law required to be entered of record in his office but no higher fees. 12 V. c. 35, s. 43.

Registrar to keep a separate registry book, &c.

95. Every Registrar shall keep a separate book for the registering of title deeds of lands situate in any such Town or Village, in the same manner as is by law required for registering title deeds for lands situate in Townships. 12 V. c. 35, s. 43.

96. If the owner or owners of ~~any such Town or Village~~, Penalty for neglect.
 or any original division thereof, or their agents, heirs, or other
 legal representatives, refuse or neglect to make or cause to be
 made, the plan or map of such Town or Village, or original
 5 division thereof, and deposit the same in the Registry Office of the
 County wherein the same is situate, within one year from and
 after the time of surveying and laying out the same, he or they
 shall forfeit and pay for such refusal or neglect, the sum of ~~two~~
 10 ~~pounds ten shillings~~, and a like sum for every year thereafter
 until such plan or map be made and deposited in the Registry
 Office of the County wherein the Town or Village is situate.
 12 V. c. 35, s. 42.

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97. The payment of any such penalty or penalties shall not
 free or discharge such owner or owners, their agents, or other
 15 legal representatives, from any penalties which may not
 have been paid at the time of such payment. 12 V. c. 35, s. 42.
 Effect of pay-
 ment of any
 penalty.

98. The several Penalties or Forfeitures mentioned in pre-
 ceding sections of this Act, may be recovered upon information
 and complaint before any three of Her Majesty's Justices of
 20 the Peace of the County in which the lands lie, and shall be
 levied by warrant signed by any two of the Justices, who have
 heard the complaint, directed to the Sheriff of the County,
 commanding him, the said Sheriff, to make of the Goods and
 Chattels of the person or persons convicted on such information
 25 and complaint in his County, the amount of such Penalties or
 Forfeitures, and the costs of such conviction, and to return the
 said warrant, and to pay the moneys thereon made to the
 Treasurer of the County, on a day to be therein named, being
 30 ~~not less~~ than one month from the date of such warrant, and the
 said moneys shall be appropriated in like manner as the
 Assessment levied for the general use of such County. 12 V.
 c. 35, s. 42,—8 V. c. 58, s. 6.
 Penalties, &c.,
 how recover-
 able, and their
 appropriation.

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99. In case the Sheriff returns on the said warrant, that the
 35 person or persons so convicted has or have no goods in his
 County, then, any two Justices of the said County, shall issue
 a like warrant to the Sheriff, against the Lands and Tenements
 of the said person or persons in the said County, returnable in
 one year from the date thereof, and the Sheriff shall thereupon
 40 advertise the said Lands for sale, and sell the same, in the
 same manner as he is authorized and required by law to
 advertise and sell lands under a Writ of *Fieri Facias*. 8 V.
 c. 58, s. 7.
 Where the
 owner has no
 goods his lands
 may be sold by
 Sheriff.

or district?

100. Every Land Surveyor in Upper Canada shall keep ex-
 45 act and regular journals and field-notes of all his surveys, and
 file them in the order of time in which the surveys have been
 performed, and shall give copies thereof to the parties concern-
 ed when so required, for which he is hereby allowed the sum
 of
 Surveyors in
 U. C. to keep
 regular jour-
 nals and field-
 notes and fur-
 nish copies to
 parties inter-
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~~Every~~

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of ~~five shillings currency~~, for each copy, if the number of words therein do not exceed four hundred words, but if the number of words exceed four hundred, he is allowed six pence additional for every hundred words, over and above four hundred words. 12 V. c. 35, s. 45. 5

Surveyors in U. C. may administer oaths for certain purposes.

101. For better ascertaining the original limits of any lot, concession, range, Township or tract of land in Upper Canada, every Land Surveyor acting in that portion of this Province, shall and may administer an oath or oaths to each and every person whom he examines concerning any boundary, post or monument, or any original land mark, line, limit or angle of any Township, concession, range, lot or tract of land which such Surveyor may be employed to survey. 12 V. c. 35, s. 46. 10

Evidence taken by Surveyors in U. C. to be reduced to writing and signed, &c.

102. All evidence taken by any Surveyor as aforesaid, in Upper Canada, shall be reduced to writing, and shall be read over to the person giving the same and be signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same as also the Surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Surveyor, with reference to any survey by him performed, may be filed and kept in the Registry Office of the County in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in any Court of Law or Equity within Upper Canada: and 12 V. c. 35, s. 47. 20 25

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1. For receiving and filing the same, the Registrar shall be entitled to one shilling and three pence currency; and
2. The expense of filing the same shall be borne by the parties in the same manner as other expenses of the survey. 12 V. c. 35, s. 47. 30

Wilful false swearing under this Act to be perjury.

103. If any person, in any part of this Province, wilfully swears or affirms falsely concerning any matter with regard to which an oath may be required under this Act, such person shall be deemed guilty of wilful and corrupt perjury, and being thereof convicted before any competent Court shall be liable to be punished accordingly. 12 V. c. 35, s. 48. 35 ?

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As to cases in Upper Canada where from unskilful survey, a party may have improved lands afterwards found to belong to his neighbour.

104. In case an action of ejectment be brought in Upper Canada, against any person, who, after any line or limit has been established according to this Act, may be found, in consequence of unskilful survey, to have improved on lands not his own, the Judge of Assize before whom such action is tried, shall direct the Jury to assess damages for the defendant for any loss he may sustain in consequence of any improvement made before the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict be found for the claimant, no Writ of Possession shall issue 40

if

issue until such plaintiff has tendered or paid the amount of such damages, or has offered to release the said land to the defendant provided the said defendant before the fourth day of the ensuing term, pays or tenders to the plaintiff the value of the land so assessed. 12 V. c. 35, s. 49.

105. In all cases in which the Jury before whom any action of ejectment may be tried in Upper Canada, assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own in consequence of unskilful survey, and when it satisfactorily appears that the defendant does not contest the claimant's action for any other purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishment of the lines according to law, the Judge before whom such action is tried, shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the claimant had been non-suited on the trial, or a verdict had been rendered for the defendant; provided the defendant, at the time of appearing, gave notice in writing to the claimant in such ejectment, or to his Attorney named in the Writ, of the amount claimed for such improvements, and that on payment of such amount the defendant or person in possession would surrender the possession to such claimant, and that the said defendant did not intend at the trial to contest the title of the claimant; and if on the trial it be found that such notice was not given as aforesaid, or if the jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, then in any such case the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the claimant; and upon the trial of any cause after such notice no evidence shall be required to be produced in proof of the title of the claimant. 12 V. c. 35, s. 50.

Plaintiff not to have costs in such cases from the time defendant offers to give up the lands on receiving the value of his improvements, stating the amount.

Unless the jury shall assess the improvements, at less than the sum demanded.

When no proof of claimant's title required.

106. If any person knowingly and wilfully pulls down, defaces, alters or removes any monument so erected as aforesaid, such person shall be adjudged guilty of Felony; and if any person knowingly and wilfully defaces, alters or removes any other land mark, post, or monument placed by any land Surveyor, to mark any limit, boundary or angle of any Township Concession, range, lot or parcel of land, in Upper Canada, or in Lower Canada, such person or persons shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed ~~Twenty five pounds~~ and such imprisonment not to be for a longer period than Three months, without any prejudice to any civil remedy which any party may have against such offender or offenders in damages by reason of such offence; But this shall

Punishments of persons removing or defacing land marks.

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As to Surveyors. shall not extend to prevent Land Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before. 12 V. c. 35, s. 29.

Tariff of Fees. 107. The following fees shall be paid under the Provisions of this Act :

- 1. To the Secretary of the proper Board by each Apprentice, at the transmitting to such Secretary the Indenture or Articles of such Apprentice. (18 V. c. 83, s. 3.)..... \$2.00
- 2. To the Secretary of the proper Board by each Candidate for examination with his notice thereof. 12 V. c. 35, s. 7..... 1.00
- 3. To the Secretary of the proper Board by each Applicant obtaining a Certificate, as his fee thereon. 12 V. c. 35, s. 7---14, 15 V. c. 4, s. 3..... 2.00
- 4. To the Secretary of the proper Board as an admission fee by each Applicant receiving a Certificate, out of which the expenses attending the examination of such Applicant (if any) shall be first paid, and the remainder, (if any,) shall be paid over to the Commissioner of Crown Lands and be accounted for like other moneys received by him 14, 15 V. c. 4, s. 4,—12 V. c. 35, s. 8,—18 V. c. 83, s. 1..... 20.00
- 5. To every Surveyor summoned to attend any Court, civil or criminal, for the purpose of giving evidence in his professional capacity as a Surveyor, for each day he so attends, (in addition to his travelling expenses, (if any,) and to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such Court. 18 V. c. 83, s. 6..... 4.00

Copies of this Act to be sent to every Surveyor. 108. A copy of this Act shall be sent to every Land Surveyor in this Province, in the same manner as the other Statutes are sent to the parties entitled to receive the same. 12 V. c. 35, s. 52.

Interpretation clause. 109. The words "Commissioner of Crown Lands" wherever they occur in this Act shall mean the person discharging the duty of that officer. 12 V. c. 35, s. 51.

TITLE 9.

PRIVATE RIGHTS AND REMEDIES.

CAP. LXXVIII.

An Act respecting compensation to the Families of Persons killed by Accident, and in duels.

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

1. Whenever the death of a person has been caused by such wrongful act, neglect or default, as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, in such case the person who would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured and although the death has been caused under such circumstances as amount in Law to Felony. 10, 11 V. c. 6, s. 1.
2. Every such action shall be for the benefit of the wife, husband, parent and child of the person whose death has been so caused, and shall be brought by and in the name of the Executor or Administrator of the person deceased in Upper Canada, or of the personal representative, tutor or curator, or of the heir of such person deceased in Lower Canada, and in every such action the Jury may give such damages as they think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action has been brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before mentioned parties in such shares as the Jury by their verdict may find and direct. 10, 11 V. c. 6, s. 2.
3. When the death of a person has been caused by any wound or injury received in a duel, which wound or injury has been inflicted by the use of any description of Fire Arms or other deadly weapon whatsoever, in such case the person inflicting such wound or injury, and all persons present aiding or abetting the parties in such duel as seconds or assistants therein, may be proceeded against under this Act, although no action for damages could have been brought by the person whose death may be so caused had death not ensued from the infliction of such wound or injury. 10, 11 V. c. 6, s. 3.

Action given to recover damage for the death of any person caused by any wrongful act, neglect, or default.

For whose benefit and in whose name such action shall be brought.

What damages may be given.

Actions may be brought against seconds and abettors in duels.

No more than one action to lie for the same cause. 4. Not more than one action shall lie for and in respect of the same subject matter of complaint; and every such action shall be commenced within twelve months after the death of the deceased person. 10, 11 V. c. 6, s. 4.

Limitation of time for bringing such actions. 5. In every such action the Plaintiff on the record shall together with the declaration, deliver to the Defendant or his Attorney, a full particular of the person for whom and on whose behalf such action is brought, and of the nature of the claim in respect of which damages are sought to be recovered. 10, 11 V. c. 6, s. 5.

Interpretation of words. 6. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say: words denoting the singular number are to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; the word "parent" shall include father and mother and grandfather and grandmother and stepfather and stepmother; and the word "child" shall include son and daughter and grandson and granddaughter and stepson and stepdaughter. 10, 11 V. c. 6, s. 6.

C A P . L X X I X .

An Act respecting the Appointment of Commissioners for taking Affidavits and the Attendance of Witnesses in the Courts of Upper and Lower Canada reciprocally.

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

COURTS IN UPPER CANADA MAY APPOINT COMMISSIONERS
IN LOWER CANADA

and vice versa?

1. The Chief Justice and any one of the Justices of the Courts of Queen's Bench and Common Pleas respectively in Upper Canada, or in the event of the death or absence from the Province of the Chief Justice, any two of the Justices of the said Courts respectively, may, by one or more commission or commissions, under the seal of the Court, from time to time, empower such and as many persons as they think fit and necessary to take and receive affidavits in Lower Canada, in or concerning any cause, matter or thing depending, or in any wise concerning any of the proceedings to be had in the said Courts, or in any other Court of Law of Record in Upper Canada; and every affidavit taken as aforesaid, shall be of the same force as if taken in the particular Court in which the same is entitled or intended to be used. 12 V. c. 77, ss. 1, 3.

Courts in U. C. may appoint Commissioners in L. C.

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2. The Chief Justice and any one of the Justices of the Superior Court for Lower Canada, or in the event of the death or absence from the Province of the Chief Justice, any two of the Justices of the said Court, by one or more commission or commissions under the seal of the said Court, may from time to time empower as many persons as they think fit and necessary to take and receive affidavits in Upper Canada, in or concerning any cause, matter or thing depending, or in any wise concerning any of the proceedings to be had in the said Court, or in any other Court of Law of Record in Lower Canada; and every such affidavit taken as aforesaid shall be filed in the Office of the Court and in the District or Circuit to which the subject matter of such affidavit relates, and may be made use of in such Court to all intents and purposes as other affidavits taken in the said Court; and every affidavit taken as aforesaid, shall be of the same force as if taken in such Court. 19 V. c. 88, s. 1.

Courts in L. C. may appoint Commissioners in U. C.

3. An affidavit proving the execution in Upper Canada of any deed, will or probate or memorial thereof, for the purposes of registration in Lower Canada, may be made in Upper Canada before a Commissioner of the Superior Court of Lower Canada. Such Commissioners may take affidavits in proof of deeds for registration.

Canada appointed under this Act ; And an affidavit proving the execution in Lower Canada of such instruments for purposes of registration in Upper Canada, may be made in Lower Canada before a Commissioner of the said Courts of Queen's Bench or Common Pleas appointed under this Act. 12 V. c. 577, s. 2, and 19 V. c. 88, s. 2.

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COURTS TO ISSUE SUBPŒNAS INTO ANY PART OF CANADA.

Courts may issue subpœnas to any part of Canada.

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpœna ad testificandum* or of *subpœna duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada. 18 V. c. 9, s. 1.

Service thereof in any part of Canada to be good.

5. The service of any such writ or process in any part of Canada, shall be as valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court. 18 V. c. 9, s. 1.

When not to be issued.

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside. 18 V. c. 9, s. 1.

Writs to be specially noted.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order. 18 V. c. 9, s. 2.

Consequences of disobedience.

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof, and of such default to the satisfaction of such Court, transmit a certificate of such default, under the Seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear

cg/

a writ of subpoena or other similar process issued out of such last mentioned Court. 18 V. c. 9, s. 3.

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate per diem and per mile allowed to witnesses by the law and practice of the Superior Courts of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process, was served upon him. 18 V. c. 9, s. 3. If expenses paid or tendered.

10. The service of such writs of subpoena or other similar process in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same. 18 V. c. 9, s. 3. How service proved.

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses, unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders. 18 V. c. 9, s. 4. Costs of attendance provided for.

12. This Act shall apply to the summoning of witnesses residing within the jurisdiction of the Circuit Court held at any one place, to attend at any trial or *enquête* before the Circuit Court at any other place in Lower Canada. 18, V. c. 9, s. 5. This Act extended to the Circuit Court in L. C. reciprocally.

13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court. 18 V. c. 9, ss. 6, 7. Power to issue commissions to examine witnesses—preserved.

C A P . L X X X .

An Act respecting the admission of evidence of foreign judgments, and certain official and other documents.

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

- Foreign judgments, &c., how proved. **1.** Any judgment, decree or other judicial proceeding, covered, made, had or taken in any of the Superior Courts of Law, Equity or Bankruptcy in England, Ireland or Scotland, or in any Court of Record in Lower Canada, or in any Court of Record of the United States, or of any State of the United States of America, may be proved in any suit, action or proceeding, either at Law or Equity in Upper Canada, in which proof of any such judgment, decree or judicial proceeding may be necessary or required, by an exemplification of the same under the Seal of the said Courts respectively, without any proof of the authenticity of such Seal, or other proof whatever, in the same manner as any judgment, decree, or similar judicial proceeding of any of the Superior Courts of Common Law or Equity in Upper Canada may be proved by an exemplification thereof in any judicial or other proceeding in the said last mentioned Courts respectively. 13, 14 V. c. 19, s. 1. 5
- Notarial Acts in L. C. admissible. **2.** A Notarial copy of any Notarial Act or Instrument writing made in Lower Canada, before a Notary or Notaries, filed, enrolled or enregistered by such Notary or Notaries, shall be receivable in evidence in any judicial or other proceeding either at law or equity in Upper Canada, in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved. 13, 14 V. c. 19, s. 2. 15
- How impeached. **3.** Such Notarial copy may be rebutted or set aside by proof that there is no such original, or that the Notarial copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may be the law of Lower Canada be taken before a Notary or Notaries, or be filed, enrolled or enregistered by a Notary or Notaries in Lower Canada. 13, 14 V. c. 19, s. 2. 20
- How Records in U. C. proved. **4.** Any judgment, decree, or other judicial proceeding, any Court of Record in Upper Canada, may be proved in any suit, action or proceeding, in any Court in Lower Canada, by the production of an exemplification of such judgment, decree or other judicial proceeding, under the Seal of such Court of Record, without any proof of the authenticity of the Seal, or other proof whatever. 13, 14 V. c. 19, s. 3. 25

5. In every case in which the original record could be received in evidence, a copy of any official or public document in this Province, purporting to be certified under the hand of the proper officer, or person in whose custody such official or public document may be placed, or a copy of any document, by-law, rule, regulation or proceeding, or a copy of any entry in any Register or other book of any Corporation, created by charter or statute in this Province, purporting to be certified under the Seal of such Corporation, and the hand of the president or Secretary thereof, shall be receivable in evidence in any particular, in any Court of justice, or before any legal tribunal, or the Legislative Council or Assembly, or any Committee thereof respectively, or in any judicial proceeding, without any proof of the Seal of such Corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without any further proof thereof. 13, 14 V. c. 19, s. 4.

How public or official documents proved.

6. All Courts, Judges, Justices, Masters in Chancery, Masters of Courts, Clerks of Courts, Prothonotaries, Commissioners judicially acting, and other judicial officers in this Province, shall take judicial notice of the signature of any of the Judges of the Superior, Circuit, or County Courts of Law or Equity in Upper Canada or in Lower Canada, provided such signature be appended or attached to any decree, order, certificate, affidavit or other judicial or official document. 13, 14 V. c. 19, s. 5.

Judicial notice to be taken of signatures of Judges, &c.

7. If any person forges the Seal or Signature to any such certified copy as is hereinbefore mentioned, or tenders in evidence any such certified copy with a false or counterfeit Seal or Signature thereto, knowing the same to be false or counterfeit, whether the Seal or Signature be that relating to any corporation or office already created or established, or hereafter created or established; or if any person forges the signature of any such Judge as aforesaid to any decree, order, certificate, affidavit, or other judicial or official document, or tenders in evidence any order, decree, certificate, affidavit, or other judicial or official document, with a false or counterfeit signature of any such Judge as aforesaid thereto, knowing the same to be false counterfeit, every such person shall be guilty of felony, and shall be imprisoned in the Penitentiary for any term not less than two nor more than five years. 13, 14 V. c. 19, s. 6.

Forgery of seals, signatures, &c.

to be /

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8. Whenever any document hereinbefore mentioned is received in evidence by virtue of this Act, the Court, Judge, Commissioner or other person acting or officiating judicially, who admits the same, may, in its or his discretion, direct the same to be impounded, and kept in the custody of the Master or other officer of the Court, or some other proper person, until further order touching the same has been made either by such

When instruments offered in evidence may be impounded.

such Court or to the Court to which such Master or other officer belongs, or by the person or persons, who constituted such Court, or by some one of the Judges of the Superior, Circuit, or County Courts of Law or Equity, (as the case may be) on application made for that purpose. 13, 14 V. c. 19, s. 6. 5

CAP:

C A P . L X X X I .

An Act respecting Copy Rights.

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

1. Any person resident in this Province or any person being a British subject, and resident in Great Britain, or Ireland who is the author of any book, map, chart, or musical composition, already made or composed, but not printed or published, or hereafter made or composed, or who invents, designs, etches, engraves or causes to be engraved, etched or made from his own design any print or engraving, and the executors, administrators or legal assigns of such persons, shall have the sole right and liberty of printing, reprinting, publishing and vending such book, map, chart, musical composition, print, cut, or engraving, in whole or in part, for the term of twenty-eight years, from the time of recording the title thereof in the manner hereinafter directed. 4 & 5, V. c. 61, s. 2,—10, 11 V. c. 28.

Copy-right of British subjects.

*obscure?
 St. ...

For 28 years.

2. If at the expiration of the aforesaid term, such author inventor, designer, engraver, or any of them, where the work had been originally composed and made by more than one person, be still living, and residing in this Province or residing in Great Britain or Ireland, or being dead, has left a widow or a child, or children, living, the same exclusive right shall be continued to such author, designer or engraver or if dead, then to such widow and child or children, (as the case may be) for the further time of fourteen years : but in such case within six months after the expiration of the first term, the title of the work secured shall be a second time recorded, and all such other regulations as are herein required in regard to original Copy Rights shall be complied with in respect to such renewed Copy Rights. 4 & 5, V. c. 61, s. 3,—10, 11 V. c. 28.

Privileges after that period.

3. In all cases of renewal of Copy Right under this Act, the author or proprietor shall, within two months from the date of such renewal, cause a copy of the record thereof to be published in the *Canada Gazette*, for the space of four weeks. 4 & 5 V. c. 61, s. 4.

Renewal of copy right.

4. No person shall be entitled to the benefit of this Act, unless he has, before publication, deposited a printed copy of such book, map, chart, musical composition, print, cut, or engraving, in the Office of the Registrar of the Province, which Officer shall record the same forthwith in a book to be kept for that purpose, in the words following, (giving a copy of the title under his signature, to the said author or proprietor whenever required.)

Steps required to confer the right.

Province of Canada :

day

Be it Remembered, that on the _____ in the year _____ of A. B., of the District of _____ deposited in this Office a printed book, (map, chart, or otherwise, as the case may be,) the title of which is in the words following, that is to say:—(insert the title,) the right whereof he claims as author (or as proprietor, as the case may be.) C. D. For which record the Officer shall be entitled to receive from the person claiming such right as aforesaid, ~~five shillings~~ 10 currency, and the like sum for every copy actually given to such person or his assigns :

blank one line
of Parliament?
depositor of

Deposit of copies.

5. The author shall also deposit in the Library of the Legislative Assembly of this Province, a copy of the work for which a Copy Right has been obtained. 4 & 5, V. c. 61, s 5. 15

Notice required to be prefixed.

6. No person shall be entitled to the benefit of this Act, unless he gives information of the Copy Right being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, or engraving, by causing to be impressed on the face thereof, or if a volume of maps, charts, music or engravings, upon the title or frontispiece thereof, the following words, that is to say : " Entered according to Act of the Provincial Legislature, in the year _____ by A. B., in the Office of the Registrar of the Province of Canada." 4 & 5 V. c. 61, s. 6. 25

Where the work must be published.

7. To entitle any such literary production or engraving as is in this Act mentioned, being the work of any such person residing in Great Britain or Ireland, to the protection of this Act, the same shall be printed and published in this Province, and shall, in addition to the words directed to be inserted by the last section of this Act, and immediately following thereafter, contain the name and place of abode or business in this Province of the printer and publisher thereof. 10, 11 V. c. 28. 35

Consequences of infringing.

8. If any other person after the recording of the title of any book according to this Act, within the term or terms herein limited, prints, publishes or imports, or causes to be printed, published or imported, any copy of such book without the consent of the person legally entitled to the Copy Right thereof, first had and obtained by deed duly executed, or knowing the same to be so printed or imported, publishes, or exposes to sale or causes to be published, sold or exposed to sale any copy of such book without such consent in writing, such offender shall forfeit every copy of such book to the person then legally entitled to the Copy Right thereof; and shall forfeit and pay ~~ten shillings currency~~ for every such sheet which may 45

\$9

may be found in his possession, either printed or printing, published, imported or exposed to sale, contrary to the intent of this Act; of which penalty one moiety shall be to the use of Her Majesty, and the other to the legal owner of such Copy Right, to be recovered in any Court of competent jurisdiction. 4, 5 V. c. 61, s. 7.

9. If any person, after the recording of the title of any print, cut or engraving, map, chart or musical composition, according to the provisions of this Act, within the term ~~or terms~~ limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, either in the whole or by varying, adding to or diminishing the main design, with intent to evade the Law, or prints or imports for sale, or causes to be printed or imported for sale, any such map, chart, musical composition, print, cut or engraving, or any parts thereof without the consent of the proprietor or proprietors of the Copy Right thereof, first obtained, as aforesaid, or knowing the same to be so printed or imported without such consent, publishes, sells or exposes to sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut or print, without such consent, as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut or print, has been copied, and also every sheet thereof, so copied or printed, as aforesaid, to the proprietor or proprietors of the Copy Right thereof, and shall further forfeit ~~ten shillings, currency,~~ for every sheet of such map, musical composition, print, cut or engraving, which may be found in his or their possession, printed or published, or exposed to sale, contrary to the true intent and meaning of this Act; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered in any Court of competent jurisdiction. 4, 5 V. c. 61, s. 8.

10. Nothing herein contained shall extend to prohibit the importation or vending, printing or publishing of any map, chart, book, musical composition, print or engraving, written, composed or made by any person not residing in this Province, and not being a British subject resident in Great-Britain or Ireland. 4, 5 V. c. 61 s. 9. Exceptions.

11. If any person prints or publishes any manuscript whatever in this Province, or the same having been printed or published elsewhere, offers it or causes it to be offered for sale in this Province, without the consent of the author or legal proprietor first obtained, as aforesaid, such author or proprietor being resident in this province, or being a British subject resident in Great Britain or Ireland, such person shall be liable to the author or proprietor for all damages occasioned by such Pirating manuscripts.

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injury, to be recovered in any Court of competent jurisdiction.
4, 5 V. c. 61, s. 10.

Consequences
of fictitious
prefix of copy
right.

\$60.

12. If any person prints or publishes any book, map, chart, musical composition, print, cut or engraving, and not having legally acquired the Copy Right thereof, inserts therein, or impresses thereon, that the same hath been entered according to this Act, or words purporting the same, every person so offending, shall incur a penalty not exceeding ~~fifteen pounds~~, ~~currency~~ (one moiety thereof to the person who sues for the same, and the other moiety to the use of Her Majesty,) to be recovered in any Court of competent jurisdiction. 4, 5 V. c. 61, s. 11.

Limitation of
actions.

13. No action or prosecution for the recovery of any penalty under this Act, shall be commenced more than two years after the cause of action arose. 4, 5 V. c. 61, s. 12.

Act retrospec-
tive to 18th
September
1841.

14. The provisions of this Act intended for the protection and security of Copy Rights, and providing remedies, penalties and forfeitures, in case of violation thereof, shall during the aforesaid term extend to the benefit of the author or proprietor of every work aforesaid, heretofore published in this Province, before the eighteenth of September, one thousand eight hundred and forty-one, if the author or proprietor complies with the provisions of this Act, in the same manner as if the work had been published, since that period. 4, 5 V. c. 61, s. 13.

Ad valorem
duty on im-
portation of
books protect-
ed by copy
right.

15. The Governor in Council may impose an *ad valorem* duty not exceeding twenty *per centum* upon Books imported into this Province, wherein the Copy Right is subsisting, first composed or written or printed in the United Kingdom, and printed or re-printed in any other Country, and with regard to which the notice to the Commissioners of Customs required by any Act of the Imperial Parliament in force in that behalf, has been given, and may from time to time alter the said duty (not exceeding in any case the rate aforesaid,) and from time to time may establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force, and as he may deem requisite and equitable, with regard to the admission of such Books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the Copy Right; but no such Order in Council shall impose a duty on the importation of any Book which might have been imported free from duty on the tenth of August, one thousand eight hundred and fifty. 13, 14 V. c. 6, s. 1.

fifteenth

Meaning of
"book."

16. The word "Book" in the ~~fourteenth~~ section of this Act, shall include every Volume, part or division of a Volume, Pamphlet, Sheet of Letter Press, Sheet of Music, Map, Chart or Plan separately published. 13, 14 V. c. 6, s. 2.

17.

g and sixteen

17. The provisions contained in the ~~fourteenth and fifteenth~~ sections of this Act, shall be subject to the orders of Her Majesty in Council made pursuant to the Act of the Imperial Parliament, passed in the session of the tenth and eleventh years of Her Majesty's Reign intituled, *An Act to amend the Law relating to the protection in the Colonies of works entitled to Copy Right in the United Kingdom.* 13, 14 V. c. 6, s. 3,—22 V. c. 76, s. 2, proviso.

The 14 & 15 sections to be subject to Imperial Statute.

TITLE

A

TITLE 10.

MUNICIPAL MATTERS.

CAP. LXX XII.

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 Sov-
ereign 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-
demnation of the conduct of public affairs : and it being expedi-
ent to make Legislative provision for the calling and orderly
holding thereof, and the better preservation of the public peace
at the same ; Therefore

Meetings
within the
protection 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 herein-
after 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 She-
riffs or two
magistrates to
be within pro-
tection 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 sec-
tion of this Act prescribed, upon the requisition of any twelve
or more of the Freeholders, Citizens or Burgesses of such Dis-
trict, County, Riding, Town, Township, Ward or Parish, having
a right to vote for Members to serve in the Provincial Parlia-
ment in respect of the property held by them within such Dis-
trict, 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

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.

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 herein after 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.

Meetings declared by two magistrates to be within the protection of the Act to be so.

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. 7 V. c. 7, s. 4.

Manner of bringing meetings required by law within protection of this Act.

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.

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 : 7 V. c. 7, s. 5.

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).

(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 the _____ day of _____ (here state the place) on _____ 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 _____ in the District of _____ this _____ day of _____ 18 35

A. B. Sheriff,
or
C. D., J. P.
E. F., J. P.

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 _____ 40

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. 7 V. c. 7, s. 6.

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  (*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,

and the better preservation of the public peace at the same, and 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, our hands, at _____ in the District of _____ this _____ day of _____ 18 _____

C. D., J. P.
E. F., J. P.
&c.

7.

Sheriffs or Justice &c. calling meetings on requisition to give certain notices. 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. 5

Justices declaring meetings to be within protection of Act 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. 10 15

Sheriffs and Justices calling and declaring meeting under this Act to attend the same. 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, 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. 25 30

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. 35 40

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 45

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.

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. 15 7, s. 12.

To call on Justices of the Peace for assistance.

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.

Justices to swear in Special Constables on requisition of Chairman.

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 ~~forty shillings~~, 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.

Persons of certain ages refusing to be 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 ~~forty shillings~~, 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

Justices of the Peace may disarm persons.



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How is this affected by the Act of last Session - (Dangerous Weapons?)

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.

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 ~~five shillings~~ 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.

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.

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 ~~twenty five pounds~~, or imprisonment 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.

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 ~~twenty five pounds~~, or 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.

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 to use abusive language, opprobrious epithets or other offensive demeanor directed to, at or against such person, to provoke such person

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person, or those who may accompany him, to a breach of the Peace, shall be guilty of a Misdemeanor, punishable by fine not exceeding ~~fifty pounds~~ and imprisonment not exceeding six months, or both at the discretion of the Court. 7 V. c. 7, s. 19.

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5 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. Actions to be brought within 12 months.

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CAP. LXXXIII.

An Act respecting the Consolidated Municipal Loan Fund.

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

Municipal
Loan Funds
established.

1. There shall continue to be a Consolidated Municipal Loan Fund for each Section of the Province of Canada, which shall not at any time exceed the sum of One Million Five Hundred Thousand Pounds sterling for either of the said Sections, together with such further sum or sums of money as may constitute the Sinking Fund under the authority of this Act or any Act heretofore passed. 18 V. c. 13, s. 1,—16 V. c. 22, s. 1. 5

To be called
the L. C. and
U. C. loan
fund.

2. The said Funds shall be called respectively the Lower Canada Municipal Loan Fund and the Upper Canada Municipal Loan Fund, and shall be managed by the Receiver General, under the direction of the Governor in Council, in the manner provided by this Act, in separate accounts for each, and the books and accounts thereof shall be kept in his office. 18 V. c. 13, s. 2,—16 V. c. 22, s. 1. 15

Debentures to
issue on the
credit there-
of.

3. All Debentures issued by the Receiver General, under the provisions of this Act, shall be issued upon the credit of the said Consolidated Municipal Loan Fund of Lower Canada or of Upper Canada, as the case may be. 18 V. c. 13, s. 3. 20

Municipalities
may raise money
on the credit of this
fund.

4. The Council of any County, City, Incorporated Town, Township or Village, may, if not already done, authorize by By-law, any sum of money, not exceeding in the whole, including sums already raised, twenty per cent. on the aggregate valuation of the property in the Municipality according to the then last finally revised assessment-roll thereof and affected by the By-law, to be raised on the credit of the said Fund available to such Council, and may appropriate such sum, or so much thereof as may be found requisite, to defray the expense of building or improving any Gaol or Court House for the use of such Municipality, or for acquiring, constructing or completing, or assisting in the construction or completion of any Railroad, Canal or Harbour, or for the improvement of any navigable River, within or without the Municipality, the acquisition or construction whereof will benefit the inhabitants of such County, City, Town, Township or Village. 16 V. c. 22, s. 2,—16 V. 123, s. 7,—18 V. c. 13, s. 2. 25 30 35

For certain
purposes

And other
objects in
cities, &c.

5. The Council of any incorporated City, Town or Village may, by By-law, authorize any sum of money, not exceeding twenty 40

twenty per cent. as aforesaid, to be raised on the credit of the said Fund, available as aforesaid, and appropriate the same, or so much thereof as may be necessary, to defray or aid in defraying the expense of erecting, prosecuting and maintaining any Gas or Water Works within or for the use of such City, Town or Village, or its salubrity, drainage or more perfect sanitary condition, or for constructing or aiding in the construction of any Plank or Macadamized Road for the benefit of any such City, Town or Village. 18 V. c. 13, s. 4 ; 16 V. c. 22, s. 2.

6. The Council of any City or County may, by By-law, authorize any sum of money, not exceeding twenty per cent. as aforesaid, to be raised on the credit of the said Fund, available as aforesaid, and appropriate such sum, or so much thereof as may be necessary, to defray the cost of making or improving any Bridge, Macadamized, Gravel or Planked Road, within or without the Municipality, the making or improving whereof will benefit the inhabitants of such County or City. 16 V. c. 22, s. 2,--18 V. c. 13, s. 4,—See V. c. 123, s. 7.

And for additional objects.

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7. The Council of any Municipality in Lower Canada may, in addition to the powers above granted, raise upon the credit of the share of the said Fund set apart for Lower Canada any sum of money which they deem necessary for the opening, establishing, constructing, repairing or improving, either within or without the limits of the Municipality, of any Road, Street or Bridge, the construction and maintenance of which will be advantageous to such Municipality ; and appropriations out of the said Fund which, prior to the Tenth day of June, one thousand eight hundred and fifty-seven, had been made by Municipal Corporations in Lower Canada, for the purposes aforesaid, are hereby approved and confirmed. 20 V. c. 42, ss. 2, 3.

Additional powers in L. C.

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8. Every By-law above mentioned shall declare the purpose to which the sum to be raised shall be applied, and make such other provisions as may be requisite for ensuring the due application of the money, and the attainment of the objects contemplated by the By-law : 16 V. c. 22, s. 2.

What By-laws are to express.

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9. Any such By-law may provide that the assistance of the Municipality shall be granted towards any of the purposes aforesaid, specifying the same, either by subscribing on behalf of the Municipality for Stock in any Company incorporated for any such purposes, or by loaning money to such Company, or to any Board of Commissioners incorporated for any of the above purposes, in which case the security to be taken from the Company or Board of Commissioners, and the other terms of the loan, shall be mentioned in the By-law ; 16 V. c. 22, s. 2, sub-s. 1.

What By-laws may provide.

- Recital, &c. **10.** The By-law shall recite that the loan is to be raised under the provisions of this Act, and shall express the term for which the loan is required, which shall not in any case exceed thirty years, nor be less than five years; 16 V. c. 22, s. 2, sub-s. 2.
- If By-law passed by a County Council. **11.** If the By-law has been passed by a County Council, the principal and interest of the loan shall be payable by all the Townships, Towns and Villages in the County, and the County Treasurer shall in each year apportion the amount to be paid by each, according to the amount of property returned upon the Assessment Rolls of such Townships, Towns and Villages respectively, for the financial year next preceding that for which the apportionment is to be made; 16 V. c. 22, s. 2, sub-s. 3.
- Publication of By-law before passing. **12.** Such By-law, or every material provision thereof, shall for at least one month before the final passing thereof, be published for the information of the Rate-payers in some newspaper published weekly or oftener, within the territorial jurisdiction of the Municipality, or if there be no such newspaper then in some Newspaper published in the place nearest to such jurisdiction, and also by posting the same up in at least four public places in the Municipality, (and if it be a By-law of a County Council then in each Municipality in such County) with a notice signed by the Clerk of the Municipality in the Council of which the By-law originated, specifying in such notice the date of the first publication of the By-law and signifying that it is a true copy of a By-law which will be taken into consideration by the Council of the Municipality after the expiration of one month from the first publication thereof in such newspaper, and that on some day and at some hour and place, (or if the Meeting be for a County By-law, places,) named in the notice, and which shall be previously fixed by the said Council, such day after such first publication, a General Meeting of the qualified Municipal Electors of the Municipality, (or of the several Municipalities within the County,) will be held for the purpose of considering such By-law, and approving or disapproving of the same; 16 V. c. 22, s. 2, sub-s. 4.
- To be sanctioned by the electors. **13.** On the day and at the hour and place (or places) appointed by such notice, the qualified Municipal Electors, or such of them as choose to attend the Meeting, shall take the said By-law into consideration, and shall approve or disapprove of the same; 16 V. c. 22, s. 2, sub-s. 5.
- Who to preside at the meeting of electors. **14.** At such Meeting the Mayor or Reeve of the Municipality in which it is held shall preside, or in his absence some other Member of the Council of such Municipality to be chosen by the Meeting; 16 V. c. 22, s. 2, sub-s. 5.

15. The Clerk of such Municipality shall have with him the Assessment Rolls of the Municipality then in force, or certified copies thereof, and shall act as Secretary ; and the only question to be determined at such Meeting, shall be whether the majority of the Municipal Electors present thereat, do or do not approve of the By-law ; 16 V. c. 22, s. 2, sub-s. 5. The Clerk to produce rolls.

16. When the question has been put, the person presiding shall declare whether in his opinion the majority is for the approval or disapproval of the By-law, and his decision if not forthwith appealed from, shall be final, and shall forthwith be communicated to the Council of the Municipality which originated the By-law, by a certificate under the hand of the Secretary of the Meeting ; 16 V. c. 22, s. 2, sub-s. 5. Putting the question.

17. Any six duly qualified Municipal Electors present at any such Meeting may appeal from the decision of the person presiding, and demand a Poll, and such Poll shall be granted by the person presiding at the Meeting, and shall be immediately taken by him, the Clerk of the Municipality acting as Poll Clerk ; 16 V. c. 22, s. 2, sub-s. 6. Demand of a Poll.

18. Each Elector shall then present himself in turn to the person presiding, and shall give his vote "yea" or "nay,"--the word "yea" meaning that he approves the proposed By-law, and the word "nay" that he disapproves the same :--but no person's vote shall be received unless he appears by the Assessment Rolls to be a duly qualified Municipal Elector ; 16 V. c. 22, s. 2, sub-s. 6. Polling votes.

19. The person presiding may, if necessary, adjourn the Poll at sunset on the day of meeting, until ten o'clock in the forenoon of the following day, not being a Sunday or statutory holiday, when the Poll shall be continued as on the first day, but shall be closed at sunset of such second day. 16 V. c. 22, sub-s. 7. Adjournment of Poll.

20. If at any time on the first or second day one half hour elapses without a vote being offered, the Poll shall be closed. 16 V. c. 22, sub-s. 7. Closing the poll.

21. At the close of the Poll the person presiding shall count the "yeas" and the "nays," and ascertain and certify for the information of the Council which originated the By-law, whether the majority is for the approval or the disapproval of the said By-law ; and such certificate shall be countersigned by the Clerk of the Municipality acting as Secretary of the Meeting, and kept by him, with the Poll List, among the records of his office, and if the By-law originated with a County Council, a duplicate thereof shall be transmitted to the County Clerk. 16 V. c. 22, sub-s. 8. Result to be declared.

When votes taken upon County By-laws.

22. If the By-law to be considered is a By-law of a County Council, the meeting to consider the same, or the poll of the electors, shall not be held for the whole County at one place, but such meeting or poll shall be held in each of the several Municipalities of such County respectively. 5

By what majority By-law to be approved or disapproved.

23. The question whether the By-law is approved or disapproved, shall be decided either by a majority of the total number of electors voting "yea" or "nay," in the whole County, or by the majority of votes of Municipalities approving or disapproving of the same, giving to each Municipality one or two votes, according as it is by Law authorized to return a Reeve or a Reeve and Deputy Reeve to the County Council of such County. 10

Majority of votes of electors to decide.

24. In the last mentioned case each Municipality shall be held to have voted for the approval of the By-law, if the Majority of Electors who voted at the Meeting held therein have voted "yea," and to have voted for the disapproval thereof if the Majority of such Electors have voted "nay." 15

The mode of decision to be determined by By-law.

25. Each such County Council shall make a By-law to provide which of the two modes of decision shall be adopted, and shall also thereby declare the manner in which the decision of each Municipality, or of the electors thereof, shall be made known to the County Clerk; 16 V. c. 22, s. 2, sub-s. 9. 20

If By-law disapproved.

If approved.

26. If the By-law be disapproved by the majority of the Electors (or of the Municipalities) as aforesaid, the Council shall not proceed to pass the same, but if it be approved by such majority, and afterwards passed by the Council, then such By-law and all the provisions thereof shall be subject to the approval of the Governor in Council, and shall have no force until such approval has been given; but shall not be subject to the special provisions made by the Act respecting Municipal Institutions in Upper Canada, concerning By-laws creating debts, or to any provisions or formalities, except those prescribed by such Act with regard to By-laws generally, and those prescribed by this Act. 16 V. c. 22, s. 2, sub-s. 10. 25

Contents of By-laws submitted for Governor's approval.

27. Every such By-law, when submitted to the Governor in Council for his approval, shall contain a recital that it has been approved by a majority of the duly qualified Municipal Electors (or of the Municipalities) of (or in) the Municipality, at a meeting (or meetings) called and held in conformity to the requirements of this Act. 16 V. c. 22, s. 2, sub-s. 10. 40

Recital to be conclusive.

28. Such recital shall for all the purposes of this Act be conclusive proof of the facts therein stated; 16 V. c. 22, s. 2, sub-s. 10. 45

29. No such By-law, or any thing done under it, shall be invalidated by any error of fact or incorrectness in such recital ; but this provision shall not affect the responsibility of those who have wilfully concurred in any mis-statement of fact in such recital ; 16 V. c. 22, s. 2, sub-s. 10.

Erroneous recital not to vitiate.

30. The Governor in Council shall not approve of such By-law until proof has been made to his satisfaction that the By-law was published and notice given as hereinbefore required.

What proof the Governor to require.

31. The Treasurer of the Municipality shall furnish the Governor with a statement, certified under oath, shewing the amount of taxable property in the Municipality according to the then last Assessment Roll or Rolls, and a true account of all the debts and liabilities of the Municipality and of its expenditure for every purpose, for the then last year. 16 V. c. 22, s. 2, sub-s. 11.

Who to furnish the proof —and how.



32. The Governor in Council may require from the Municipality by the Council whereof any such By-law has been passed, all such documents and information as he thinks necessary for ascertaining the expediency or in expediency of such By-law, or any of the provisions thereof, and the proper Officers of such Municipality shall furnish the same accordingly.

Governor may call for documents, &c.

33. No such By-law shall be repealed, amended or altered, otherwise than by another By-law approved in like manner by the Governor in Council, and to which all the provisions of this Act shall apply, in like manner, as to the original By-law. 16 V. c. 22, s. 3.

How By-laws may be repealed or amended.

34. So soon as the By-law has been approved as aforesaid, the Receiver General may raise by loan, under Debentures issued by him upon the credit of the proper Consolidated Municipal Loan Fund, a sum of money not exceeding the sum authorized by such By-law, and pay the same over to the Treasurer of the Municipality, or deliver to him, or to his order, Debentures secured upon the said Fund to a like amount, or pay part of such sum in money to the Treasurer, and deliver to him Debentures for part.

When approved Receiver General may raise by loan, &c., under debentures.

35. In every case, he shall enter the amount for which Debentures are issued and delivered, to the Debit of the Municipality as so much due by it to the said Fund ; 16 V. c. 22, s. 3, sub-s. 1.

And enter to debit of the Municipality.

36. The principal and interest of the Debentures so issued may be made payable at any place within or without this Province in currency or in sterling money or in the currency of the place where they are made payable.

Where debentures to be payable.

In what form debentures to be. **37.** Such Debentures shall be in such form as the Governor in Council directs, subject to the following provisions: 16 V. c. 22, s. 3, sub-s. 2.

1. They shall express upon their face that the Provincial Government undertakes to pay the principal sum mentioned in them and the interest thereon, out of the moneys forming part of the Consolidated Municipal Loan Fund, and out of no other moneys or funds whatsoever; 16 V. c. 22, s. 3, sub-s. 3.

2. The principal shall be made payable at the time provided by the By-law, and the Debentures shall contain no provisions inconsistent with the By-law by which the loan is authorized, and they shall contain all such provisions as may be necessary to carry out the intentions of such By-law; 16 V. c. 22, s. 3, sub-s. 4.

3. The rate of interest upon them shall in no case exceed six per centum per annum, and such interest shall be made payable half yearly on days in each year to be therein appointed for the purpose; but if any Debenture be issued within the three months next before any such day, then the first interest thereon may be made payable on that one of the half yearly days which comes next after the expiration of three months from the date of its issue; 16 V. c. 22, s. 3, sub-s. 5.

4. They shall be for even sums of money, and no Debenture shall be for a less sum than twenty-five pounds, or the equivalent thereof; 16 V. c. 22, s. 3, sub-s. 6.

5. They shall contain such conditions as the Governor from time to time, by order in Council, directs as to the right of the Receiver General to call in such Debentures or any of them for payment before the time therein absolutely appointed for the payment of the principal,--the manner in which they may be so called in,--and in which it is to be determined which of such Debentures shall be so called in at any time, if they be not all called in at the same time.

6. No interest shall be payable upon any Debenture which has been called in according to such conditions, for any period after the day on which it has been required to be presented for payment, which day shall always be one of those on which interest is payable on such Debentures; and this forfeiture of interest in the case last mentioned shall be expressed on the face of the Debenture; 16 V. c. 22, s. 3, sub-s. 7.

What it is not necessary to show.

38. It shall not be necessary that any Debenture should show upon what By-law or with reference to what Municipality it is issued, but each Debenture shall be distinguished by a number by which it shall be known and referred to; 16 V. c. 22, s. 3, sub-s. 8.

39.

- 39.** The Governor in Council may direct that any such Debentures may on the application of the holders thereof be exchanged for another or others of the same amount of principal, payable absolutely at the same or any later date, and bearing the same or any less rate of interest ; 16 V. c. 22, s. 3, sub-s. 9. Debentures may be exchanged.
- 40.** The said Debentures shall be held to be Debentures issued by the Government of this Province through the Receiver General thereof, within the meaning of the Act to establish freedom of Banking, and of the Act to exempt the several chartered Banks from the tax on their circulation on certain conditions, and shall be available accordingly for all the purposes of the said Acts or either of them ; 16 V. c. 22, s. 3, sub-s. 10. To be within the Act respecting freedom of banking.
- 41.** Any moneys which are by law directed to be invested by or under the directions of the Governor in Council, may be invested in such Debentures. 16 V. c. 22, s. 3, sub-s. 10. Any moneys may be invested in such debentures.
- 42.** When, so far as relates to Upper Canada, it is necessary to enable the said Upper Canada Municipal Loan Fund, to meet the charges upon it, the Governor in Council may, from time to time, direct the Receiver General to advance to the said Fund, out of any unappropriated moneys forming part of the Fund arising out of moneys levied under the authority of other Acts respecting the Building Fund, the Lunatic Asylum and other Buildings, and known as "The Upper Canada Building Fund," such sum as may be deemed expedient, and in like manner direct the repayment of such sum from the said Municipal Loan Fund to the said Building Fund. 16 V. c. 22, s. 4,—18 V. c. 13, s. 1. In U. C. the building fund may be applied to.
- 43.** The Receiver General and the Treasurer of the Municipality shall respectively keep a correct account between the Municipality and the Consolidated Municipal Loan Fund, debiting the Municipality with the principal of each Debenture issued for its purposes, and with the interest thereon as the same becomes due, and any other expenses or liabilities incurred by reason of such Debentures, and crediting it with the sums paid over to the Receiver General to meet such principal and interest, also with the proportionate share of the Municipality in the proceeds of any moneys forming part of the Sinking Fund and invested by the Receiver General, and with any other sums received by him on account of the Municipality. 16 V. c. 22, s. 5. What accounts to be kept.
- 44.** The Receiver General shall, three months before each day in each year in which interest or principal will be payable on the Debentures issued for the purposes of any Municipality, notify the Treasurer thereof, by letter sent by Post, of the sum which he will, under the provisions of this Act, be required to pay over to the Receiver General by reason of such Debentures, which What notice Receiver General to give.

which sum such Treasurer shall pay over accordingly. 16 V. c. 22, s. 5.

Want of notice not to affect, &c. **45.** The failure on the part of the Receiver General to give such notice shall not affect the obligation of the Treasurer or of the Municipality, to pay over such sum at the time when it ought to be so paid over ; 16 V. c. 22, s. 5.

Eight per cent. to be paid yearly. **46.** The sum to be so paid at any time by the Treasurer for his Municipality shall be at the rate of eight per centum per annum on the amount of the Debentures issued for the Loan in respect of which the payment is made, for the period to which the payment relates, and such further sum as may be payable on the day in question for or on account of the principal of such Debentures, less the sum applicable to the payment of such principal as may then stand at the credit of the Municipality in account with the said Fund ; and such payments shall continue to be made until all the Debentures are paid off in principal and interest, or until there be a sufficient sum at the credit of the Municipality to pay off the same ; 16 V. c. 22, s. 5, sub-s. 1.

When coupons receivable as money. **47.** If the Treasurer has any of such Debentures in his hands as the property of his Municipality, then the proper Coupons for interest on such Debentures may be taken from him by the Receiver General as money. 16 V. c. 22, s. 5, sub-s. 2.

Sinking fund. **48.** The difference between the said rate of eight per cent and the actual interest payable on the Debentures, and all other moneys which come into the hands of the Receiver General as part of the said Fund, and are not required to pay the interest of Debentures chargeable upon it, shall form a Sinking Fund, and shall be from time to time invested by the Receiver General under the direction of the Governor in Council, and the amount thereof shall, with the proceeds of such investment (which shall also form part of the said Sinking Fund) be applied under such direction to the redemption of Debentures issued on the credit of the said Municipal Loan Fund ; 16 V. c. 22, s. 5, sub-s. 3.

How sinking fund to be credited to Municipalities. **49.** Each Municipality shall be credited with a share of the said Sinking Fund equal to the amount of the sums it has paid into the same, and with a share of the proceeds of any part of the said Fund invested by the Receiver General proportionate to the sums it has paid into the same and the time during which such sums have remained in the said Sinking Fund, and such share shall be accordingly applied to the redemption of the Debentures issued for the purposes of such Municipality ; 16 V. c. 22, s. 5, sub-s. 3.

50. Each Municipality shall be debited with all sums paid out of the said Sinking Fund on its account ; 16 V. c. 22, s. 5, sub-s. 3. How debited.
51. The Receiver General may pay the interest on any Debenture, out of the said Sinking Fund, if in any case the other moneys at his disposal for the purpose be insufficient, repaying to the Sinking Fund, the amount so paid with interest, out of the moneys which would otherwise be applicable to the payment of such interest so soon as the same come into his hands ; 16 V. c. 22, s. 5, sub-s. 4. When applicable to payment of interest.
52. The Receiver General may from time to time sell, pledge or otherwise dispose of any securities in which any part of the Sinking Fund may have been invested in case it is necessary so to do in order to enable him to pay any sum here by made payable out of the Sinking Fund ; 16 V. c. 22, s. 5, sub-s. 5. Receiver General may dispose of securities.
53. Whenever a By-law authorizing the raising of money by loan, under this Act, has been passed by the Council of any Municipality, and approved by the Governor in Council, the Treasurer of such Municipality shall *ipso facto*, without any other authority or direction before the making out of the ordinary Collector's Rolls in each year, if the By-law is then in force, and if not, then at least three months before the earliest day on which interest can be payable on any Debenture issued under such By-law, ascertain the highest sum which can be required during the year, to pay the interest (and the principal if any be payable,) on or of Debentures issued or to be issued under such By-law, and shall add five per centum thereunto for losses and expences, and shall certify the amount in a notice to the Clerk of the Municipality, or if such Municipality be a County, then to the Clerk of each Township or Incorporated Town or Village therein, the portion payable by the same. 16 V. c. 22, s. 6. Treasurer's duty as to yearly rate.
54. The Clerk shall assess the amount so certified equally upon all the taxable property in his Municipality, and set down on the ordinary Collectors' Rolls for the year, if it has not been previously delivered to the Collectors, the amount with which each party or lot is chargeable, under the head of " Loan Rate for (naming the purpose)" or " County Loan Rate for (naming the purpose,)" as the case may be. 16 V. c. 22, s. 6. How apportioned.
55. If such amount be so certified to the Clerk after the time in any year when the Collectors' Rolls have been delivered to the Collectors, then such Clerk shall forthwith make out Special Collectors' Rolls for the purpose in the form prescribed for ordinary Collectors' Rolls, so far as such form may be applicable, and shall deliver the same to the Collector. 16 V. c. 22, s. 6. Clerk's duties.

If any funds in Treasurer's hands.

56. If there be in the hands of the Treasurer at the time of his giving such notice to the Clerk of the Municipality, any moneys applicable to the payment of the principal or interest of the Debentures to which such notice refers, the Treasurer may deduct such sum from that to which the notice refers before adding the five per cent thereto. 16 V. c. 22, s. 6. 5

If profits accrue from the use of the moneys, &c.

57. If the purpose for which the loan is raised be such as to produce profit or to yield returns in money to the Municipality, or if the money be loaned by it so as to produce interest, or if the capital be reimbursable to the Municipality, then the Treasurer and the Mayor, or Head of such Municipality may enter upon the Books of the Corporation, a Certificate signed by them in the following form :

Municipality of the *Township of*

We certify to all whom it may concern, That out of the Loan, raised under the By-law, No. _____, intitled, "*(Title of By-Law,)*" on the credit of the CONSOLIDATED MUNICIPAL LOAN FUND, there has been invested the sum of _____ in shares of the stock of the *Bytown and Prescott Railroad Company (or as the case may be)*, that this Municipality now holds the said shares ; that there ought to be paid dividends thereon during the present year, and that we have reason to believe and do believe that there will be paid into the hands of the Treasurer, as and for such dividends, before the first day of December now next, the sum of _____ which sum, we think, ought therefore, under the provisions of the Act passed, &c., (*title and date of this Act,*) to be deducted from the sum which ought otherwise now to be raised on the taxable property in this Municipality, in order to enable the Treasurer to meet the payments which he is to make to the Receiver General during the present year, on account of the said Loan. Witness our hands this _____ day of _____ 18 ____ 25

Signatures,

A. B., Treasurer.
C. D., Mayor.

and the Treasurer may then deduct the sum mentioned in such Certificate from that to which the notice refers, before adding the five per cent as aforesaid, or if the sum mentioned in the Certificate be as great or greater than that to which the notice would refer, then no notice shall at that time be given to the Clerk or Clerks of the Municipality or Municipalities concerned. 16 V. c. 22, s. 6. 30

If the amount raised exceeds, how surplus to be disposed of.

58. If the nett sum raised by any such rate as last aforesaid be greater than that required to enable the Treasurer to pay the Receiver General, the surplus shall remain in the hands of the Treasurer and be applicable to payments to be made to the Receiver General for the next ensuing year, on account of the same loan. 16 V. c. 22, s. 6, sub-s. 1. 45

59.

59. If the nett sum raised be insufficient to enable the Treasurer to pay the required sum to the Receiver General, a new assessment shall be made as hereinafter provided in cases of deficiency. 16 V. c. 22, s. 6, sub-s. 1. If insufficient.

60. All sums of money coming to the Municipality as the profits, dividends or returns from any work for which the loan has been authorized, or as interest or principal of any sum lent by the Municipality out of such loan, or otherwise howsoever by reason of such loan, shall be paid into the hands of the Treasurer and be by him carefully kept apart from all other moneys, and paid over from time to time to the Receiver General, to be by him placed to the credit of the Municipality with the Consolidated Municipal Loan Fund, except in so far as it is otherwise especially provided in the By-law authorizing such loan. 16 V. c. 22, s. 6, sub-s. 2. Integrity of funds received from any source.

61. If the sum, or any part of the sum, which ought under this Act to be paid over at any time by the Treasurer of any Municipality to the Receiver General, is not so paid over, and if the Treasurer has not money in his hands applicable to the same, or if the Treasurer foresees that he will not have the means of paying over such sum or part thereof to the Receiver General at the time when it ought to be so paid over, then in either case such Treasurer shall forthwith add five per centum to the sum wanting for such purpose, and certify the same to the Clerk of his Municipality, or if such Municipality be a County, then he shall certify to the Clerk of each Township or Incorporated Town or Village therein, the amount payable by the same, and each Clerk receiving such notice shall forthwith make out a Special Collector's Roll for the amount so certified to him, and deliver the same to the Collectors. 16 V. c. 22, s. 6, sub-s. 3. When additional rate may be imposed.

62. If any sum payable at any time by any Treasurer to the Receiver General, be not paid at such time, the Receiver General shall charge interest on such sum for the time it remains unpaid, against the Municipality in account with the Consolidated Municipal Loan Fund, and deducted from the share of such Municipality in the Sinking Fund. 16 V. c. 22, s. 6, sub-s. 4. Interest on arrears.

63. The sums entered in any Collector's Roll by any Clerk of a Municipality shall be collected and levied, and payment thereof secured and enforced in like manner and under the same provisions as other Municipal taxes, but the nett proceeds thereof shall be applied by the Treasurer solely to the purpose for which they are directed to be raised. 16 V. c. 22, s. 6, sub-s. 5. Duties and liability of collectors and sureties.

64. The Treasurer of any Municipality in arrear for any sum of money under this Act or under any Consolidated Municipal Loan Fund Act heretofore passed, shall within one month after What Treasurer to certify if funds deficient.

after the time when such sum of money becomes payable, certify to the Secretary of the Province the total value of the assessable property, and the rate in the pound in such Municipality for the year next preceding such default. 20 V. c. 20, s. 1, *latter part*. 5

What the Receiver General to certify to the Governor, &c.

65. In case the Receiver General certifies to the Governor that any Municipality is in default for any sum of money which ought to be paid by the Treasurer thereof, to the Receiver General, the Governor may if he sees fit, at any time after the expiration of three months from such default, issue his warrant to the Sheriff, directing him to levy a rate of not less than two shillings and six pence in the pound on the yearly value of the assessable property in the Municipality, or a proportionate rate on the actual value of such property, reckoning the yearly value at six per cent. on its actual value. 20 V. c. 20, s. 1, 16 V. c. 22, s. 7. 10

When he may direct a less rate to be levied.

66. In cases in which the proceeds of such rate would, in the opinion of the Governor, exceed the amount for which such Municipality is in default and the costs of the levy, the Governor may direct such less rate to be levied as will, in his opinion, produce an amount fully sufficient to pay the sum for which the Municipality is in default and the costs of the levy, and the surplus (if any) shall be returned to the Municipality according to law. 20 V. c. 20, s. 1. 15

Sheriff's duties.

67. The Sheriff shall obey the said Warrant and levy the sums therein mentioned in like manner and within the same period as he would levy the same if it had been recovered against the Municipality under a judgment of the proper Court of law, and a Writ of Execution had issued thereupon directed to him and commanding him to levy the same by rate, and shall pay over the nett proceeds to the Receiver General, and the costs allowed to the said Sheriff for executing the said Warrant shall be the same as those to which he would be entitled for executing a Writ of Execution for a like sum. 16 V. c. 22, s. 7. 30

When Governor may issue a warrant against the effects of a Municipality.

68. In case the Receiver General certifies to the Governor that any Municipality is in default, the Governor may also issue his warrant to the Sheriff, directing him to seize all goods and chattels, lands and tenements, and other property or things liable to be seized in execution, belonging to such Municipality, and to sell the same, or so much thereof as may be necessary to produce the amount for which such Municipality is in default and costs, as he would under execution against such Municipality, and to pay the proceeds unto the Receiver General in liquidation of such amount; but no School House, Alms House, Fire Engine or Fire hose, or Engine House, Court House or Gaol, or property required for the administration of Justice, shall be seized or sold under such warrant. 20 V. c. 20, s. 2. 40

69.

69. In the case of a loan effected on the credit of the said Consolidated Municipal Loan Fund by any Union of two or more Counties then united for municipal purposes, but which separate before such loan has been paid, and such Counties upon such separation agree in the manner provided by law, as to the part which each or any of them shall bear in the liability arising out of such loan, then such agreement shall be the rule by which the Receiver General shall be guided in ascertaining the liability of each of such Counties, and the amount to be paid by or levied upon each of them in respect of such loan, in case of any default to pay any sum which ought to be paid to the Receiver General in respect of the same ; and any County having paid its share of such liability so ascertained shall not be liable in respect of the share thereof of the other County or Counties united with it when the loan was effected. 20 V. c. 20, s. 3.

The separation of united counties provided for.

70. The Governor may direct the Receiver General to withhold the share of the Clergy Municipalities Fund accruing or which may accrue to any Municipality certified by the Receiver General to be in default, or from the several Municipalities in any County while such County is so certified to be in default, and to carry such share or shares to the credit of such Municipality or County on account of such default. 20 V. c. 20, s. 4.

When share of clergy fund may be withheld.

71. After any Municipality has borrowed any money under this Act or any Consolidated Municipal Loan Fund Act, heretofore passed, it shall not contract any further debt without the consent and approval of the Governor in Council, until all debts contracted by it under this Act or any such Consolidated Municipal Loan Fund Act have been wholly paid off. 16 V. c. 22, s. 8.

Restrictions as to future loans.

72. This Act and all the provisions hereof shall extend and apply to any Loan authorized by any By-law of any Municipality in Upper Canada, passed on or before the tenth day of November, one thousand eight hundred and fifty-two, or which, on such last mentioned day was in course of being passed, and was passed on or before the twenty-third day of May, one thousand eight hundred and fifty-three, for the purpose of aiding in the construction of any Railway for the making of which a Company was incorporated before the tenth day of November, one thousand eight hundred and fifty-two, or incorporated under any Act passed during the Session of the Parliament of Canada, held in the sixteenth year of Her Majesty's Reign, whether such assistance was given by taking Stock in such Company or by loaning money to it, or for the improvement of any navigable river or other work provided for by the Act of incorporation, and also to any Loan authorized by a By-law of any Municipality, passed in manner and at the time aforesaid, authorizing the raising of a Loan for the purpose of erecting, repairing, or improving any County building or buildings, provided such Loan

This Act to extend to By-laws in U. C. passed before 10th November 1852, or in course of passing on 23rd of May, 1853.

Loan had not been negotiated by the Municipality under such By-law, before the tenth day of November, in the year one thousand eight hundred and fifty-two. 16 V. c. 22, s. 9,—16 V. c. 123, s. 1.

Also to By-laws in L. C. passed before the 18th of December, 1854, &c.

73. This Act and all the provisions hereof, except as otherwise herein provided, shall in like manner extend and apply to any Loan authorized by any By-law of any Municipality in Lower Canada, passed before the eighteenth day of December, one thousand eight hundred and fifty-four, under the provisions of any Act authorizing the same, or for the purpose of aiding in the construction of any Railway for the making of which a Company was on or before the day last aforesaid, incorporated or may be incorporated under any Act passed or to be passed, whether such assistance be given by taking Stock in such Company, or by loaning money to it, and also to any loan authorized by any By-law of a Municipality passed before the day last aforesaid, authorizing the raising of any loan for the purpose of erecting, repairing or improving any Municipal building. 18 V. c. 13, s. 5.

By-laws, &c., relating to sections 72 and 73 to be laid before the Governor.

74. Before any such Municipality shall be entitled to receive any money to be raised under the authority of any By-law passed at the time or in the manner in the seventy-second and seventy-third sections of this Act mentioned, a true copy of the By-law under which the money is to be raised, together with affidavits of the Treasurer and Clerk of the Municipality verifying the same, and such other information as the Governor in Council requires, shall be transmitted to the Receiver General. 16 V. c. 123, s. 2.

If the Governor approves, its effect as respects year-ly rates.

75. If the Governor in Council approves of such By-law, it shall not be necessary to impose or levy annually the sum or rate per pound which may have been fixed in such By-law to pay the principal and interest of the Loan, but such sum only shall be levied and collected as may be necessary under the provisions of the fifty-third to the sixty-third sections inclusive of this Act, and all proceedings in connection with such Loan and By-law or for the recovery of any sum of Money which ought to be paid thereunder, may be had and taken as if the said By-law had been passed for the purpose of raising money under this Act. 16 V. c. 123, s. 3.

Certain debentures, &c., how to be disposed of.

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76. All Debentures which have been or can be issued under the authority of such By-laws as are referred to in the seventy-second and seventy-third Sections of this Act, shall be deposited with the Receiver General before the Municipality shall be entitled to receive any of the money to be raised under any such By-law, or any Debenture secured upon the said fund and deliverable by him under the provisions of this Act, and upon payment by the Municipality of the whole amount payable in respect of such Loan, such Debentures shall be cancelled.

cancelled and destroyed in such manner as the Governor in Council directs. 16 V. c. 123, s. 4,—18 V. c. 13, s. 5.

77. The money raised on the Debentures issued and delivered by the Receiver General for and upon the aforesaid Debentures issued under any By-law mentioned in the seventy-second and seventy-third sections of this Act, shall be paid or delivered by the Receiver General only on the joint order of the Municipal Council and of the holders of such Debentures. 18 V. c. 13, s. 5, *proviso 2nd.*

To whom moneys raised under the 72 and 73 sections to be paid.

78. The money raised under any By-law mentioned in the said seventy-second and seventy-third sections of this Act shall be paid by the Receiver-General only on the joint order of the Head of the Municipality and the President of the Company entitled to receive the same. 16 V. c. 123, s. 4.

Authority on which Receiver General to pay.

79. When any such By-law has been passed by the Council of any Union of Counties in Upper Canada, and such Union is at any time dissolved after the passing of such By-law, the several Counties of which such Union of Counties was composed, shall except in the cases provided for in the sixty-ninth section of this Act, continue to be liable in respect of the Loan raised under such By-law as fully and effectually to all intents and purposes as if such Union had not been dissolved, and except as aforesaid the Sheriff of the Senior County shall have power within every county which at the time of the passing of such By-law formed part of the former Unions of Counties, to levy any rate which he may be required to collect under this Act, in the same manner as if such Union of Counties had not been dissolved. 16 V. c. 123, s. 4.

The dissolution of Union of Counties provided for.

80. In case of any dissolution of a Union of Counties as aforesaid, the order hereinbefore mentioned shall be signed by the Head of the Municipality of the Senior County of such former Union. 16 V. c. 123, s. 4.

Who to sign orders in such cases.

81. No informality or irregularity in any By-laws referred to in the seventy-second and seventy-third sections of this Act, or in the proceedings relative thereto anterior to the passing thereof, shall in any way affect the validity of the same after the Governor in Council has approved such By-law, and the order in Council approving such By-law shall be held to cover any such informality or irregularity, and the By-law shall be valid, and proceedings may be had for enforcing the payment by the Municipality (or in Lower Canada by the sub-division of the Municipality on behalf of which the By-law was passed) the Council whereof passed such By-law and by the inhabitants thereof under the provisions of this Act, as if the By-law had been passed under this Act. *Vide* 18 V. c. 13, s. 6,—16 V. c. 123, s. 5.

Informality in By-laws not to vitiate.

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The case of By-laws contested before 18th of December, 1854.

82. In case information be given to the Receiver General by or on behalf of any Municipal Elector, affected by any such By-law as is referred to in the seventy-third section of this Act, that the validity of such By-law, or of any Debentures issued under the authority of the same, had been contested before a legal tribunal before the 18th day of December, 1854, the Receiver General shall not pay on such Debentures any money raised on the said Fund until the validity of such By-law or Debentures has been established by such tribunal, or until the proceedings thereon have been waived or determined. 18 V. c. 13, s. 5.

Force of such By-laws, &c.

83. This Act shall not be construed to give greater validity to any such By-law passed before the day last aforesaid which had not on the day last aforesaid been sanctioned by the Governor in Council, than was on such last mentioned day, possessed by such By-law; but this provision shall not apply to any such By-law after the Governor in Council has sanctioned the same. 18 V. c. 13, s. 5.

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Loans before this Act not covered hereby.

84. Nothing herein contained shall be held to authorize the raising of any Loan under this Act when such Loan had been negotiated or the Debentures issued therefor sold to any party before the passing of this Act. Vide 18 V. c. 13, s. 5, last proviso and 16 V. c. 123, s. 6.

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Debentures issued before this Act takes effect, &c., valid.

85. The Debentures issued before this Act takes effect upon the credit of the Consolidated Loan Fund for Upper Canada or for Lower Canada, under the authority of the Acts establishing a Consolidated Municipal Loan Fund for Upper Canada and for Lower Canada respectively, and of any Act amending the same, shall be and continue to be valid and legal as if this Act had not been passed. 18 V. c. 13, s. 3, proviso.

Interpretation.

86. In this Act, the word "Treasurer," shall include the Chamberlain of any City; the word "Mayor," shall include the Warden of any County, and the official title of any Officer shall include any person by whom his duties may be legally performed, the word "Municipality" shall include all Municipalities created under the Lower Canada Municipal and Road Act of 1855, or any Act amending the same, and all Corporations in Lower Canada, of Counties, Cities, incorporated Towns and Villages, Townships or Unions thereof, Parishes or Unions thereof, Unions of Parishes and Townships, whether there be Villages or not in such Unions; and the word "Sheriff" shall include all Sheriffs of Judicial Districts in Lower Canada. 16 V. c. 22, s. 10—18 V. c. 13, s. 8—20 V. c. 42, s. 1.

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An Act respecting registration and transfer of Municipal and certain other Debentures.

WHEREAS it would tend greatly to the increased value of Debentures issued under the authority of By-laws of Municipal and other Corporate Bodies passed for the purpose of raising moneys, and also to the better security of the holders of the same, that a system of Registration should be adopted, and a priority of lien in respect thereof given under certain conditions: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. REGISTRATION.

10 **1.** If not already done, it shall be the duty of the Clerk or Secretary-Treasurer or person acting as such, of every Municipal or Provisional Municipal Corporation, and of the Clerk or Secretary, or person acting as such, of any other Corporate Body forthwith, to transmit to the Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body or its principal office is situated, a copy duly certified as hereinafter provided, of each and every By-law of such Municipal or Provisional Municipal Corporation, or other Corporate Body heretofore passed under or by authority of which respectively any sum or sums of money may have been raised by the issue of Debentures, together with a Return in the form specified in the Schedule hereunto annexed, marked A, shewing the title or objects of each such By-law, the number of Debentures issued and the amounts thereof respectively, the amounts already heretofore paid or redeemed by the said Corporation on the account of the same, the balance still remaining outstanding and payable thereunder respectively, the dates at which the same respectively fall due, and the amount of the yearly rate to pay off the same, and the assessed value of the real and personal estate of the Municipality (or Company), and to cause the said Return to be published three time in both languages in the *Canada Gazette*, and also three times in some newspaper published in such County, or if there be no newspaper in the County nearest thereto in which there is a newspaper. 22 V. c. 91, s. 1.

If not already done, certified copies of all By-laws passed by Municipal and Corporate Bodies, under which Debentures have issued, shall be transmitted to the proper Registrar forthwith together with a Return as in Schedule A.

20 **2.** It shall be the duty of the Clerk or Secretary-Treasurer or person acting as such of every Municipal, or Provisional Municipal Corporation, or of the Clerk or Secretary, or person acting as such of any other Corporate Body, within two weeks after the final passing of any By-law after this Act takes effect, made and passed by such Corporation for the purpose of raising money by the issue of Debentures, and before the sale

Certified copies of all By-laws under which Debentures are intended to be issued, to be transmitted to the proper Registrar, &c.

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sale or contract for sale of any such Debentures issued or intended to be issued thereunder, to transmit to the Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body, or its principal office is situated, a copy duly certified, as hereinafter provided, of each and every By-law hereafter made and passed as aforesaid by such Municipal or Provisional Municipal Corporation, or other Corporate Body, together with a Return in the form specified in the Schedule B hereunto annexed, shewing the title or objects of each such By-law, the amounts to be raised thereunder, the number of Debentures to be issued thereunder, the amounts thereof respectively, the dates at which the same respectively fall due, the assessed value of the real and personal estate belonging to such Corporation or Company,--the assessed value of the real and personal estate of the Municipality, and the amount of yearly rate in the Pound to liquidate the same, and to cause said Return to be published three times in both languages in the *Canada Gazette*, and also three times in some newspaper published in such County, or if there be no newspaper, then in some newspaper in the County nearest thereto in which there is a newspaper. *Ibid.*, s. 2.

dollar |

Registrar to file such By-laws, and to keep Books with copies of the Returns required by sections 1, 2.

3. The Registrar of the County or Registration Division in which such Municipal Corporation or other Corporate Body or its principal office is situated, shall receive and file in his office the several By-laws required to be transmitted to him as hereinbefore provided, and shall cause to be entered in a Book provided for that purpose, true and correct copies of the Returns hereinbefore required by the first and second sections of this Act. *Ibid.*, s. 3.

If requested, the Registrar may register the name of such holder of any debenture, and registration to be *prima facie* evidence.

4. The Registrar of each County or Registration Division, as aforesaid, shall provide a Book of Registration, wherein he shall, at the request of the original holder or holders, or any subsequent transferee or transferees thereof respectively, from time to time, cause to be entered and registered the name of such original holder or holders, or of such subsequent transferee or transferees, and such holder or last registered transferee in such Book of Registration shall be deemed *prima facie* the legal owner and possessor thereof. *Ibid.*, s. 4.

Made in which By-laws shall be certified.

5. All By-laws mentioned in the first section of this Act shall be certified and authenticated in the case of a Municipal or Provisional Municipal Corporation by the Seal of the Corporation, and by the Head, and by the Clerk or Secretary-Treasurer thereof respectively, being such at the time of the date of such certificate and authentication; and all By-laws mentioned in the second section of this Act shall be certified and authenticated by the Seal of the Corporation, and by the signature of the Head thereof, or of the person presiding at the Meeting at which the original By-law has been made and passed, and also by that of the Clerk or Secretary of such Corporation; and all By-laws of other Corporate Bodies shall be attested

attested and authenticated by the Seal of such Corporate Body and by the signature of the Head thereof. *Ibid.*, s. 5.

6. The certified copies of all By-laws hereinbefore referred to and transmitted as aforesaid, and also the Returns in the first and second sections mentioned, and the Book or Books of entry of such Returns and of Registration, shall be open to public inspection and examination, and access had thereto at all reasonable times and hours upon payment of certain fees as hereinafter provided. *Ibid.*, s. 6.

By-laws, returns and books of entry in Registry Office, to be open to inspection.

7. The following fees shall be paid to Registrars under this Act :

Fees to be payable under this Act.

For registration of each certified copy of By-laws, the sum of - - - - -	20 10 0
For registration of any Returns as prescribed in Schedules A and B, for each such Return, the sum of - - - - -	0 5 0
For registration of the name of holder or transferee, of any number of Debentures not exceeding five, the sum of - - - - -	0 1 3
Over five and not exceeding fifteen, the sum of - - - - -	0 2 0
Over fifteen and not exceeding thirty, the sum of - - - - -	0 3 0
Upwards of thirty, the sum of - - - - -	0 5 0
For making search, inspecting each copy of By-law, and examining entries connected therewith 22 V. c. 91, s. 7. - - - - -	0 5 0

\$ 2.00
 1.00
 .25
 .50
 .75
 1.00
 1.00

8. In all such cases as require the submission of any By-law or By-laws to the Governor ~~General~~ of this Province for his sanction, such sanction must first be obtained to bring the same within the meaning of the words "final passing thereof" in the second section of this Act. *Ibid.*, s. 8.

Meaning of term "final passing," as to By-laws to be submitted to the Governor.

9. The foregoing sections of this Act shall not extend to the By-laws, or Debentures thereunder, of any Railway Company or any Ecclesiastical Corporation heretofore incorporated or hereafter to be incorporated, or the Debentures issued by any Religious Denomination in its Corporate capacity, either in Upper or Lower Canada. *Ibid.*, s. 9.

Act not to extend to Railway Companies or Ecclesiastical Corporations, &c.

10. Any person neglecting to perform, any duty devolving upon him in virtue of the first or second sections of this Act, shall be guilty of a misdemeanour, and on conviction thereof shall be punishable by imprisonment for a period of not less than three nor more than twelve months. *Ibid.*, s. 10.

Negligence of duty, misdemeanour.

TRANSFER.

11. Any Debenture heretofore issued, or issued after this Act takes effect, under the formalities required by law, by any Municipal

Debentures payable to Municipal

bearer may be transferred by delivery. Municipal or Provisional Corporation, payable to bearer or to any person named therein or bearer, may be transferred by delivery, and such transfer shall vest the property of such Debenture in the holder thereof, and enable him to maintain an action thereupon in his own name. 18 V. c. 80, s. 1.

If to order to be endorsed. **12.** Any Debenture issued as aforesaid, payable to any person, or to any person or order, shall (after general endorsement thereof, by such person,) be transferrable by delivery from the time of such endorsement, and the transfer shall vest the property thereof in the holder, and enable him to maintain an action thereupon in his own name. 18 V. c. 80, s. 2.

In declaring thereon what facts to be stated. **13.** In any suit or action upon any such Debenture, it shall not be necessary for the Plaintiff to set forth in the declaration or other pleading, or to prove, the mode by which he or any other person became the holder of such Debenture, or to set forth or to prove the notices, by-laws, or other proceedings under or by virtue of which the Debenture was issued, but it shall be sufficient in such pleading to describe the plaintiff as the holder of the Debenture (alleging the general endorsement if any) and shortly to state its legal effect and purport, and to make proof accordingly. 18 V. c. 80, s. 3.

Good for full amount though discounted at a less sum. **14.** Any such Debenture issued as aforesaid, shall be valid and recoverable to the full amount thereof, notwithstanding its negotiation by such Corporation at a rate less than par, or at a rate of interest greater than six per centum per annum, and shall not be impeachable in the hands of a *bonâ fide* holder for value, without notice. 18 V. c. 80, s. 4.

15. This Act may be cited as "The Debentures Registration and Transfer Act."

22 V. c. 91 & 11.

SCHEDULE A

Return as required by the Act intitled, An Act to provide for the Registration of Debentures issued by Municipal and other Corporate Bodies, of Debentures issued by the [Corporate name.]

1 Title or Objects of each By-Law	2 Number of Debentures issued and Amounts		3 Amount raised under each By-law.	4 Amount paid or Re-deemed on account of said Debentures.	5 Balance still remaining outstanding and payable on said Debentures.	6 Dates at which Debentures fall due, and Amount of yearly rate to pay off same.	7 Assessed value of Real and Personal Estate of the Municipality (or Company).	
	Number.	Amounts					Real.	Personal.

Dated at _____, this _____, day of _____, A. D. 18__

C A P.

Where is Schedule B?
(See Section 2)

C A P . L X X X V .

An Act respecting certain Roads and Bridges.

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

- 1.** The right to use as Public Highway all Roads, Streets and Public Highways within the limits of any City or Incorporated Town in this Province, shall be vested in the Municipal Corporation of such City or Incorporated Town, (except in so far as the right of property or other right in the Land occupied by such Highways have been expressly reserved by some private party when first used as such Road, Street or Highway, and except as to any Concession Road or Side Road within the City or Town where the persons now in possession or those under whom they claim have laid out Streets in such City or Town without any compensation therefor in lieu of such Concession or Side Road,) 13, 14 V. c. 15, s. 1. 5
- 2.** Such Roads, Streets and Highways, so long as they remain open as such, shall be maintained and kept in proper repair by and at the cost of such Corporation, whether they were originally opened and made by such Corporation, or by the Government of this Province, or of either of the late Provinces of Upper or Lower Canada, or by any other authority or party. 13, 14 V. c. 15, s. 1. 20
- 3.** If the Municipal Corporation of any such City or Incorporated Town fail to keep in repair any such Road, Street or Highway within the limits thereof, such default shall be a misdemeanor for which such Corporation shall be punished by fine in the discretion of the Court before whom the conviction is had ; and such Corporation shall be also civilly responsible for all damages sustained by any party by reason of such default, provided the action for the recovery of such damages be brought within three months after the same has been sustained. 13, 14 V. c. 15, s. 1. 30
- 4.** Any Public Road or Bridge made, built or repaired at the expense of the Province, and which was, on the Tenth day of August, one thousand eight hundred and fifty, under the management and control of the Commissioners of Public Works, may, by Proclamation of the Governor issued by and with the advice and consent of the Executive Council, be declared to be no longer under the management and control of such Commissioners. 13, 14 V. c. 15, s. 2. 35

Use of public roads in cities and towns vested in the Municipality.

The corporation to repair, &c.

Consequences of neglect.

Government roads may be ceded to.

5. From and after a day to be named in such Proclamation, such Road or Bridge shall cease to be under the management and control of such Commissioners, and no Tolls shall be by them afterwards levied thereon, but such Road or Bridge shall be under the control of the Municipal Authorities of the locality and of the Road Officers thereof, in like manner with other Public Roads and Bridges therein, and shall be maintained and kept in repair under the same provisions of law. 13, 14 V. c. 15, s. 2. After which city or town to repair.

C A P.

C A P . L X X X V I .

An Act exempting certain Vehicles, Horses, and other Cattle from Tolls on Turnpike Roads.

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

Persons going to or returning from divine service exempted from toll.

1. All persons going to or returning from Divine Service on any Sunday or Obligatory Holiday, in or upon and with their own carriages, horses or other beasts of draught, and also their families, and servants being in or upon and with such carriages, horses or other beasts of draught, shall pass Toll-free through every Turnpike or Toll-gate on any Turnpike Road, through which they may have occasion to pass, whether such Turnpike Road and the Tolls thereon belong to the Province, or to any local or Municipal authority, or Body of Trustees or Commissioners for local purposes, or to any incorporated or unincorporated Company, or to any other body or person. 7 15
V. c. 14, s. 2.

Vehicles—cattle, &c., crossing roads when a farm divided by the road—exempted from toll—when.

2. No Vehicle laden or unladen, and no horses or cattle belonging to the proprietor or occupier of any lands divided by any Turnpike Road, shall be liable to Toll on passing through any Toll-gate on such Road (at whatever distance the same may be from any City or Town) for the sole purpose of going from one part of the lands of such proprietor or occupier to another part of the same: Provided such vehicle, horses or cattle do not proceed more than half a mile along such Turnpike Road, either in going or in returning, and for farming or domestic purposes only. 7 V. c. 14, s. 3. 25

Vehicles, &c. laden with manure passing from Cities and Towns exempt from toll.

3. Every Vehicle laden solely with Manure, brought from any City in Lower Canada, or any City or incorporated Town in Upper Canada, and employed to carry the same into the Country parts for the purposes of Agriculture, and the horse or horses, or other beast of draught, drawing such Vehicle, shall pass Toll-free through every Turnpike Gate or Toll-gate on any Turnpike Road within twenty miles of such City or Town, as well in going from such City or Town, as in returning thereto, if then empty. 7 V. c. 14, s. 1. 30

This Act not to apply to bridges.

4. This Act shall not extend to any Toll Bridge, the tolls on which are vested in any party other than the Crown. 7 V. c. 14, s. 4. 35

CAP. LXXXVII.

An Act to exempt Firemen from certain local duties and services.

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

1. Whenever any Company or Companies have been regularly enrolled in any City, Town, or place in which the formation of Companies of Firemen is by Law authorised and regulated, the Corporate Authorities, or Board of Police, in such City or Town, or if there be no such Authorities or Board, the Justices of the Peace, of the District or County in which such Town may be situate, in General Quarter Sessions assembled, or the majority of them, being satisfied of the efficiency of such persons and accepting their enrolment, shall direct the Clerk of the Peace for the District or County, to grant to each member of such Company a certificate that he is enrolled on the same, which certificate shall exempt the individual named therein, during the period of his enrolment, and his continuance in actual duty as such Fireman, from Militia duty in time of peace, from serving as a Juryman, or a Constable, and from all Parish and Town offices. 4, 5 V. c. 43, s. 2.

The corporate authorities, &c., in any city or town, in which a Fire Company is established may cause the Members of such Company to be exempted from serving as Jurors, and from certain other offices.

2. The Corporate Authorities or Board of Police, in any City or Town, or if there be no such Authorities or Board, the Justices of the Peace, for the District or County, or the majority of them, at any General or adjourned Sessions, upon complaint to them made of neglect of duty, by any individual of such Fire Company, shall examine into the same; and for any such cause, and also, in case any individual of such Company be convicted of a breach of any of the Rules legally made for the regulation of the same, may strike off the name of any such individual from the list of such Company. and thenceforward, the certificate granted to such individual, as aforesaid, shall have no effect in exempting him from any duty or service, in the next preceding section of this Act mentioned.

Such exemption may be taken away in case of misconduct on the part of any member of any such Company.

3. It shall be in the discretion of the Corporate Authorities or Boards of Police, or of the Justices of the Peace for the District or County as aforesaid, respectively, to consent to the formation, as aforesaid, of any Fire Company, in any such City, Town or place, as aforesaid, or to defer the same until circumstances may in their opinion render it expedient that such Company should be formed; and they may also, in their discretion, from time to time, discontinue or renew any such Company or Companies. 4, 5 V. c. 43, s. 3.

The said Authorities may cause such Companies, to be formed, or defer such formation, as they deem most expedient.

Firemen having served seven years exempted from serving in certain offices.

4. When any member of any Company of Firemen, regularly enrolled in any City, Town or place in which the formation of Companies of Firemen is by law authorized and regulated, has regularly and faithfully served for the space and term of seven consecutive years in the same, the said member shall be entitled to receive, upon producing due proof of his having served seven consecutive years as aforesaid, a certificate from the Clerk of the Peace of the District or County in which he resides, or from the Clerk of the Corporate Body or Board of Police under whose authority the said Company has been established, that he has been regularly enrolled and served as a member of the said fire company for the space of seven years; and such certificate shall exempt the individual named therein from Militia duty in time of peace, from serving as a constable, and from all parish and Town offices, but this shall not exempt any such Fireman serving as a juror. 12 V. c. 36.

Firemen having served 7 years entitled to a certificate to that effect.

5. The Municipal Council of any City wherein the formation of Companies of Firemen is by law authorized and regulated, may, by By-law, enact, that when a Member of any Company of Firemen regularly enrolled in such City has regularly and faithfully served in such Company for the space and term of seven years consecutively, such Member, upon producing due proof of his having so served, shall receive a Certificate from the Clerk of the Council of the City or the Clerk of the Corporate Body under whose authority the Company was established, that he has been regularly enrolled and served as a Member of the said Fire Company for the space of seven years. 14, 15 V. c. 85, s. 1.

Such certificate shall exempt from Statute labour tax and from serving as Jurors.

6. Such Certificate shall exempt the individual named therein from the payment of any personal Statute Labour Tax thereafter, and from serving as a Juror on the trial of any cause in any Court of Law within this Province. 14, 15 V. c. 85, s. 1.

C A P . L X X X V I I I .

An Act respecting the investigation of accidents by Fire.

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

1. The Coroner within whose jurisdiction any City, or incorporated Town, or incorporated Village in this Province, lies, whenever any fire has occurred, whereby any house or other building in such City, Town or Village, has been wholly or in part consumed, shall institute an inquiry into the cause or origin of such fire, and whether it was kindled by design, or was the result of negligence or accident, and act according to the result of such inquiry. 20 V. c. 36, s. 2.

Coroner to inquire into the origin of fires in Cities, Towns and Villages.

2. For the purpose aforesaid, such Coroner shall summon and bring before him all persons whom he deems capable of giving information or evidence touching or concerning such fire, and shall examine such persons on oath, and shall reduce their examinations to writing, and return the same to the Clerk of the Peace for the District or County within which they have been taken. 20 V. c. 36, s. 2.

Evidence to be taken on oath.

3. It shall not be the duty of the Coroner to institute an inquiry into the cause or origin of any fire or fires by which any house or other building has been wholly or partly consumed, nor shall such inquiry be had, until it has first been made to appear to such Coroner that there is reason to believe that such fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as in the interests of justice and for the due protection of property require an investigation. 20 V. c. 36, s. 2.

Such inquiry not to take place except under certain circumstances.

4. The Coroner may in his discretion, or in conformity with the written requisition of any Agent of an Insurance Company, or of any three householders in the vicinity of any such fire, impanel a jury chosen from among the householders resident in the vicinity of the fire, to hear the evidence that may be adduced touching or concerning the same, and to render a verdict under oath thereupon in accordance with the facts. 20 V. c. 36, s. 3.

Jury may be impanelled in certain cases.

5. If any person summoned to appear before any Coroner acting under this Act, neglects or refuses to appear at the time and place specified in the summons, or if any such person appearing in obedience to any such summons, refuses to be examined or to answer any questions put to him in the course of his examination, the Coroner may enforce the attendance of such person, or compel him to answer, as the case may require, by the same means

Coroner may enforce attendance of witnesses.

means as such Coroner might use in like cases at ordinary in-
quests before him. 20 V. c. 36, s. 4.

Punishment
of jurors not
attending, &c.

\$ 4.

6. If any person having been duly summoned as a juror upon
any such inquiry, does not, after being openly called three times,
appear and serve as such juror, the Coroner may impose upon
the person so making default such fine as he thinks fit, not ex-
ceeding ~~twenty shillings~~; and such Coroner shall make out and
sign a certificate containing the name, residence, trade or calling
of such person together with the amount of the fine imposed, and
the cause of such fine, and shall transmit the certificate to the
Clerk of the Peace in the District or County in which such
defaulter resides, on or before the first day of the Quarter
Sessions of the Peace then next ensuing for such District or
County, and shall cause a copy of such certificate to be served
upon the person so fined, by leaving it at his residence, with-
in a reasonable time after such inquest; and all fines and for-
feitures so certified by such Coroner, shall be estreated, levied
and applied in like manner, and subject to like powers, pro-
visions and penalties in all respects, as if they had been parts of
the fines imposed at such Quarter Sessions. 20 V. c. 36, s. 5. 20

Fines and how
levied.

Certain pow-
ers of Coroner
not to be
affected.

7. Nothing herein contained shall affect any power by law
vested in any Coroner, for compelling any person to attend and
act as a Juror or to appear and give evidence before him on
any inquest or other proceeding, or for punishing any person
for contempt of Court in not so attending and acting, or appear-
ing and giving evidence, or otherwise, but all such powers
shall extend to and be exercised in respect of inquiries under
this Act. 20 V. c. 36, s. 5.

Inspectors of
Police to have
powers under
this Act at
Quebec and
Montreal.

5/

8. The Inspector and Superintendents of Police or Record-
ers for the Cities of Quebec and Montreal, shall have, with 30
regard to fires occurring within the said Cities respectively, all
the powers, authorities and duties conferred on Coroners by
this Act; and within the said Cities all such inquests or inquir-
ies shall be held respectively by such Inspectors and Superin-
tendents of Police or the Recorders thereof. 20 V. c. 36, s. 6. 35

Allowance to
Coroners hold-
ing inquiries,
and how paid.

\$ 10
10

9. When any such inquiry has been held by the Coroner,
and not by any other Officer as aforesaid, in conformity with
this Act, the Coroner holding the same shall be entitled there-
for to the sum of ~~two pounds ten shillings~~, and should the said
inquiry extend beyond one day, then to ~~two pounds ten~~ per 40
diem for each of two days thereafter, and no more; And the
official order of such Coroner for the same, upon the Treasurer
of the City, Town or Village in which such inquiries have been
holden shall be a sufficient warrant to, and the said Treasurer,
out of any funds he may then have in the Treasury, shall pay 45
the same upon the presentation of such order. 20 V. c. 36, s. 7,
see 4, 5 V. c. 24, s. 8.

TITLE.

TITLE 11.

CRIMINAL LAW.

CAP. LXXXIX.

An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain Offenders.

WHEREAS by the tenth article of a Treaty between Her Majesty and the United States of America, signed at Washington on the Ninth day of August, in the year one thousand eight hundred and forty-two, the ratifications whereof were exchanged at London, on the Thirtieth day of October, in the same year, it was agreed that Her Majesty and the said United States should, upon mutual requisitions by them or their Ministers, Officers or authorities respectively made, deliver up to justice all persons who, being charged with the crime of Murder, or Assault with intent to commit Murder, or Piracy, or Arson, or Robbery, or Forgery, or the utterance of Forged Paper, committed within the jurisdiction of either of the High Contracting Parties, should seek an Asylum or should be found within the Territories of the other; provided that this should only be done upon such evidence of criminality as according to the Laws of the place where the fugitive or person so charged should be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed; and that the respective Judges and other Magistrates of the two Governments should have power, jurisdiction and authority, upon complaint made under oath, to issue a Warrant for the apprehension of the fugitive or person so charged, so that he might be brought before such Judges or other Magistrates respectively, to the end that the evidence of criminality might be heard and considered, and that if on such hearing the evidence should be deemed sufficient to sustain the charge, it should be the duty of the examining Judge or Magistrate to certify the same to the proper Executive Authority, that a Warrant might issue for the surrender of such fugitive, and that the expense of such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive; and whereas it is by the eleventh article of the said Treaty further agreed, that the tenth article hereinbefore recited should continue in force until one or other of the High Contracting Parties should signify its wish to terminate it, and no longer: And whereas certain provisions of the Act passed by the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the sixth and seventh years of Her Majesty's Reign for giving effect to the Treaty aforesaid, and intituled,

Ashburton
Treaty.

An

An Act for giving effect to a Treaty between Her Majesty and the United States of America, for the apprehension of certain Offenders, have been found inconvenient in practice in this Province, and more especially that provision which requires that before the arrest of any such offender a Warrant shall issue under the Hand and Seal of the person administering the Government, to signify that a requisition hath been made by the authority of the United States for the delivery of the offender as aforesaid, and to require all Justices of the Peace, and other Magistrates and Officers of Justice, within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and in committing such person to Gaol for the purpose of being delivered up to justice according to the provisions of the said Treaty, inasmuch as by the delay occasioned by compliance with the said provision, an offender may have time afforded him for eluding pursuit : And whereas by the fifth section of the said Act it is enacted, that if by any Law or Ordinance to be hereafter made by the local Legislature of any British Colony or Possession abroad, provision shall be made for carrying into complete effect within such Colony or Possession, the objects of the said Act, by the substitution of some other enactment in lieu thereof, then Her Majesty may, with the advice of Her Privy Council (if to Her Majesty in Council it seems meet,) suspend within any such Colony or Possession, the operation of the said Act of the Imperial Parliament, so long as such substituted enactment continues in force there, and no longer : And whereas it having been deemed expedient to make provision for carrying the objects of the said Act and Treaty into complete effect within this Province, other enactments were duly substituted in lieu of the said Imperial Act to the following effect : Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

By whose order and on what evidence persons charged with crimes committed in the U. S. may be arrested and detained.

1. Upon complaint made under oath or affirmation, charging any person found within the limits of this Province with having committed, within the jurisdiction of the United States of America, or of any of such States, any of the crimes enumerated or provided for by the said Treaty, any of the Judges of any of Her Majesty's Superior Courts in this Province, or any of Her Majesty's Justices of the Peace in the same, may issue his Warrant for the apprehension of the person so charged, that he may be brought before such Judge or such Justice of the Peace, to the end that the evidence of criminality may be heard and considered ; and if, on such hearing, the evidence be deemed sufficient by him to sustain the charge according to the laws of this Province if the offence alleged had been committed herein, he shall certify the same, together with a copy of all the testimony taken before him, to the Governor that a Warrant may issue, upon the requisition of the proper authorities of the said United States or of any of such States, for the surrender of such person, according to the stipulation of

of the said Treaty ; and the said Judge or the said Justice of the Peace shall issue his Warrant for the commitment of the person so charged to the proper Gaol, there to remain until such surrender be made, or until such person be discharged according to law. 12 V. c. 19, s. 1.

2. In every case of complaint as aforesaid, and of a hearing upon the return of the Warrant of Arrest, copies of the depositions upon which an original Warrant in any of the said United States may have been granted, certified under the hand of the person or persons issuing such Warrant, or under the hand of the Officer or person having the legal custody thereof, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended. 12 V. c. 19, s. 2.

Properly attested copies of depositions taken in U. S. to be received as evidence of criminality.

3. The Governor, upon a requisition made as aforesaid by the authority of the said United States or of any of such States, may, by Warrant under his hand and seal, order the person so committed to be delivered to the person or persons authorized to receive such person in the name and on the behalf of the said United States or of any of such States, to be tried for the crime of which such person stands accused, and such person shall be delivered up accordingly ; and the person or persons authorized as aforesaid, may hold such person in custody, and take him or her to the territories of the said United States, pursuant to the said Treaty ; and if the person so accused escapes out of any custody to which he or she stands committed, or to which he or she has been delivered as aforesaid, such person may be retaken in the same manner as any person accused of any crime against the laws of this Province, might be retaken upon an escape. 12 V. c. 19, s. 3.

Governor may order the delivery of the offender to the U. S. or to any one of the States.

Offenders escaping may be re-taken.

4. In case any person committed under this Act and the Treaty aforesaid, to remain until delivered up in pursuance of a requisition as aforesaid, be not delivered up pursuant thereto and conveyed out of this Province within two months after such commitment over and above the time actually required to convey the prisoner from the Gaol to which he has been committed by the readiest way out of this Province, any of the Judges of Her Majesty's Superior Courts in this Province, having power to grant a Writ of *Habeas Corpus*, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to the Provincial Secretary, may order the person so committed to be discharged out of custody, unless sufficient cause be shewn to such Judge or Judges why such discharge should not be ordered. 12 V. c. 19, s. 4.

Any person so arrested and not delivered up within two months may obtain his discharge unless good cause for his further detention be shewn.

5. This Act shall continue in force during the continuance of the tenth article of the said Treaty, and no longer. 12 V. c. 19, s. 5.--*Proclamation 28th March, 1850.--See Canada Gazette, Page 8295.*

Duration of this Act.

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 :

1. 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. 4, 5 V. c. 27, s. 43. 5

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

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. 27, s. 38. 10

For 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. 15

Punishment for counterfeiting current coin. First offence.

Second or subsequent 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. 20

Variance in description not to be a valid objection to an indictment.

5. Upon the trial of any person accused of any offence alleged to have been committed against the form of the Act for regulating the currency of this Province, 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. 25

Punishment for false colouring or

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 30

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 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.

uttering counterfeit coin.

First 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.

Second offence.

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.

Making or possessing stamps or dies for counterfeiting.

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.

Onus probandi to be upon the person in possession.

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,

Search warrant to issue for discovery of counterfeit coin, coining tools, &c.

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, 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 evidence 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.

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

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.

Counterfeit coin produced in Court to be destroyed.

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.

When tender of light coin to be a misdemeanor.

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.

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

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.

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 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.

Punishment for counterfeiting or uttering coin not current.

The offence a misdemeanor.

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 making tools for counterfeiting foreign coin.

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.

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

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

Punishment for offending against the three previous sections.

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

5. SPURIOUS COPPER AND BRASS COIN.

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. 10

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. 15

22. Such permission shall be announced in the Official Gazette. 4, 5 V. c. 17, s. 1. 20

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. 25

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. 30

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. 35

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 ~~five pounds currency~~ ^{five pounds} for every pound troy of the weight thereof. 4, 5 V. c. 17, s. 3. 40

\$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.

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, he 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.

Who may convict and impose penalties and commit offenders.

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.

When the owner and not the possessor incurs the penalty.

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.

Officers of customs may seize, &c.

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 this Act, under a penalty of the forfeiture of double the nominal value thereof. 4, 5 V. c. 17, s. 7.

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

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-six 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.

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 ~~transported beyond the Seas, for his natural life, and previously to transportation~~ shall be imprisoned for any term not exceeding four years. 4, 5 V. c. 24, s. 25.

~~NOTE.—It is proposed to omit the words from "transported" to "shall be" in the second and third lines from the bottom, and to increase the term of imprisonment, transportation not being any longer admissible.~~

? Does imprisonment suffered, relieve offender from previous sentence of banishment

C A P. X C I.

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.

? as to translate "homicide excusable"

7

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 not exceeding 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.

less than

5. *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.

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

6.

* NOTE.—As to the word "less," compare 4 & 5 V. c. 25, ss 26 & 27 with 6 V. c. 5, and 14, 15 V. c. 2, s. 2, as to periods of imprisonment. † NOTE.—This follows the statute—but should it not now be "less than two years," Sec 14 & 15 V. c. 2, s. 2.

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 punishable.

7. ATTEMPTS TO STAB, 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 punishable.

8. *Feloniously administering Drugs.*

Feloniously administering drugs.

8. 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.

How punishable.

9. *Maliciously Stabbing, &c.*

Maliciously stabbing or inflicting other bodily injury—a m. demeanor.

9. 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 misdemeanour, 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 term not less than two nor more than five years. 18 V. c. 92, s. 30.

How punishable.

* NOTE.—The 18 V. c. 92 s. 30, says in the Penitentiary not less than two years or elsewhere not more than two years, "less" in the text is substituted for "more."

10. *Explosive Substances.*

10. Any person who unlawfully and maliciously 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 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, --- ~~See 22 V. c. 4, s. 10.~~
- Unlawful use of explosive substance.
Felony.
Punishment.
11. 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.
- Bodily injury by.
Felony.
12. 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.
- Attempts to inflict bodily injury by.
Felony.
13. 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.
- Punishment.

11. *Possessing Explosive Substances with illegal intents.*

14. 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.
- Possessing explosive substances with illegal intents, a misdemeanor.
Punishment.

12.

* See note ante ss. 3 & 22 V. c. 2, s. 10.

† The Statute says "not exceeding two years" but "less than," seems more in accordance with the spirit taken in connexion with 14 & 15 V. c. 2, s. 2.

12. *Rape.*

Rape. **15.** Every person guilty of the crime of rape, shall suffer death as a felon. 4, 5 V. c. 27, s. 16.

13. *Abusing Infants under the age of Ten Years.*

Abusing infants under ten years of age. **16.** 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. 5

14. *Infants above the age of Ten.*

If above ten and under twelve years. **17.** 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.

15. *Bestiality.*

Bestiality. **18.** 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. 10

16. *Assault with intent.*

Assault with intent. **19.** 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. 6 V. c. 5, s. 5. 15

Punishment.

17. *Attempts to procure Abortion.*

Attempts to procure abortion. **20.** 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. 20

Felony.

Punishment.

18. *Abduction of Heiress.*

Abduction of heiresses. **21.** 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 30

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 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. Felony. Punishment.

19. *Abduction of Females under 16.*

22. 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. Abduction of girls under 16. Misdemeanor. Punishment.

20. *Maliciously decoying Children under 10 years of age.*

23. 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. Decoying children under ten years of age with intent to steal wearing apparel—aiding or abetting. Felony. Punishment.

24. 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. Exceptions.

21. *Bigamy.*

25. 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 Bigamy. Felony. Punishment.

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.

Exceptions. 26. Nothing in the last section contained shall extend,—

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.

22. *Impeding ship wrecked persons.*

Impeding the saving of ship wrecked persons. 27. 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.

Felony.

Punishment.

23. *Assaults on Persons aiding Vessels in distress or wrecked.*

Assaulting Magistrates aiding vessels in distress or in saving goods stranded, &c. 28. 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.

Punishment.

24. *Hindering Seamen, &c.*

29. Any person who unlawfully and with force,—

Hindering seamen from serving, &c. 1. Hinders any seaman from working at or exercising his lawful trade, business or occupation, or beats, wounds, or uses any

any other violence to him with intent to deter or hinder him from working at or exercising the same ;

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.

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. Assaulting persons on their way to market, &c., with grain. Punishment. 4, 5 V. c. 27, s. 26.

30. 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. Offenders not to be twice punished. 4 & 5 V. c. 27, s. 26.

25. *Arrest of Clergymen.*

31. 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. Arrest of Clergymen performing Divine Service, *eundo morando et redeundo.* 4, 5 V. c. 27, s. 23.

26. *Assaulting persons apprehending offenders in the night.*

32. 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. Assaulting persons arresting offenders caught in the act at night. 18 V. c. 92, ss. 40, 41.

27. *Summary proceedings.*

33. 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. Common assaults may be summarily tried and disposed of. 4, 5 V. c. 27, s. 27.

34. The offender, upon conviction before such Justice, shall forfeit and pay such fine as may to him appear meet, not exceeding Punishment by fine, &c.

? left hand

\$20.

exceeding (together with costs, if ordered), the sum of ~~five~~ pounds.

How fines to be disposed of.

35 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. 5

Competency of witnesses.

36. The evidence of any inhabitant of the Municipality or place interested as aforesaid, shall be admitted in proof of the offence. 10

If fine not paid offender may be committed.

37. 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. 15

When the Justice may dismiss the case.

38. 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. 20 25

Costs.

39. 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. 4, 35 5 V. c. 27, s. 27.

How enforced.

After being punished and acquitted no second prosecution to take place.

40. 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. 4, 5 V. c. 27, s. 28. 40

The Justice may deal with aggravated as-

41. In case the Justice finds the assault or battery complained of to have been accompanied by any attempt to commit felony, or 45

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. 4, 5 V. c. 27, s. 30. saults as if no summary jurisdiction had been conferred.

42. 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. Such jurisdiction not to be exercised when a question of title to land arises.

43. 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 11th, 12th & 14th Sections of this Act. 10, 11 V. c. 4, s. 16. J. P. and recorders not to try for certain offences

CAP. XCII.

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.*

- | | | |
|--|--|----------|
| When a Capital offence | <p>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.</p> | 5 |
| When not Capital—and how punishable. | <p>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.</p> | 10 |
| Assaulting with intent to rob—felony. | <p>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.</p> | 15
20 |
| Forcibly taking money—felony. | <p>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.</p> | 25 |
| Robbery and assault—or assault with intent to rob. | <p>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.</p> | 30
35 |
| Felony. | | |
| Punishment. | | |

Translation wanted!

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.

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 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 a Capital offence.

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.

When not a Capital offence, and how punished.

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

The night defined.

of

What entry or exit from a dwellinghouse shall constitute burglary. 5
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.)

Stealing in a dwellinghouse and putting in bodily fear, felony. 10
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.

What is or is not part of the dwelling house. 20
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. 25
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 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. 30
Punishment. 4, 5 V. c. 25, s. 19.

Breaking into and stealing in shops. 35
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.

Persons found at night armed with intent to commit burglary or other felony. 40
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, 45

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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. 28. A misdemeanor. Punishment.

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 ~~five pounds~~, 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 not paid may be committed.

\$ 20.

5. Larceny.

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 What Courts may try.

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.

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, 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 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.

Felony.
Punishment.

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.

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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 person 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

Stealing or fraudulently taking records from place of deposit.
Misdemeanor.

Punishment. 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.

Indictments for—need not state owner or value. **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. **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.

Punishment.

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

Unlawfully possessing ship wrecked goods. **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 Justice, shall forfeit and pay such sum of money, not exceeding twenty pounds, as to the Justice may seem meet. 4, 5 V. c. 25, s. 23.

Punishment.

\$80

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 ~~twenty pounds~~, 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.

\$ 80

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 ~~five pounds~~, as to the Justice may seem meet. 4, 5 V. c. 25, s. 30.

Dog stealing; punishment.

\$ 20

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 offender shall be guilty of felony, and shall be punished in the same manner as in the case of simple Larceny; and in case

Stealing parts of buildings, &c

Felony.

Of

See the statute.

Punishment. 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.

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.

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

Stealing trees, shrubs, &c., of one shilling 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 ~~a shilling~~ 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 ~~five pounds~~, as to the Justice may seem meet. 4, 5 V. c. 25, s. 31.

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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 ~~five pounds~~, as to the Justice may seem meet. 4, 5 V. c. 25, s. 32.

\$20.

Unlawful possession of trees, fences, &c., of two shillings 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 two shillings 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 so found, any sum not exceeding two pounds. 4, 5 V. c. 25, s. 33.

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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 five pounds~~, 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, *o. 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.

\$ 20.

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 ~~twenty shillings~~, 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, &c.

Punishment.

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16. OFFENCES BY CLERKS, SERVANTS, TRUSTEES, BANKERS, AGENTS.
Larceny by clerks and servants.

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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.

43. If any money or security for the payment of money having been intrusted to any banker, merchant, broker, attorney or other

Mala Fide mis-application contrary to other

Romp
written instruction of moneys, &c., entrusted to bankers, bailiffs, &c.

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, moneys, &c. entrusted to bankers, agents, &c., to be applied to special purposes—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.

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.

Nor bankers receiving moneys due upon securities.

Or disposing of securities in which they have a lien.

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., intrusted 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 preceding 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 persons 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 *bond 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 disclosure made by the Agent 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 own
- 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.

Bankers

52. 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. 5

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

53. 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. 10

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

54. 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. 15

Directors, &c., of any body corporate or public Company, fraudulently appropriating property,—
Or keeping fraudulent accounts,—

55. 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. 20

56. 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. 25

Or wilfully destroying books, &c.

57. 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. 30

Or publishing fraudulent statements,—

58. 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 35

- 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. Guilty of misdemeanor.
59. 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 eight 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.
60. Every person found guilty of a misdemeanor under the nine 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. Punishment for a misdemeanor under this Act.
61. Nothing in the ten 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.
62. Nothing in the eleven 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. No remedy at law or in equity to be affected by this Act.
Convictions not to be received in evidence in civil suits.

- Sanction of Attorney General requisite to certain prosecutions;** **63.** No proceeding or prosecution for any offence included in the fifty-first section, 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 section, 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. 5
- Or the sanction of a Judge in certain cases.** **64.** 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. 15
- If offence amounts to larceny, offender not to be acquitted of misdemeanor.** **65.** 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. 20
- Misdemeanors not triable at sessions.** **66.** The word "Trustee" shall in the next preceding fifteen 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. 30
- Interpretation of certain terms;** **Trustee.** **67.** The expression "Court of Law" shall include any Court having civil jurisdiction in Lower Canada. 35
- Court of Law.** **Property.** 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. 40 45

67. 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 year but not less than one year. § 12 V. c. 12, s. 1.

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

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68. 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 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.

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

69.

*Note.—This rendering is supposed to be in accordance with the true intent.

In case of partners, the offending party only liable. **69.** 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. 5

17. *False Pretences.*

Obtaining goods, moneys, &c., by false pretences. **70.** 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. 10

Punishment. **71.** 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. 20

Stet. L. M. M. A.

Attempting to obtain Railway, &c., passage. **72.** 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. 25

18. *Receivers.*

Receiving stolen goods when a misdemeanor. **73.** 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-first to sixty-sixth, 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. 30 35 40

Punishment. **74.** If any person receives any chattel, money, valuable security, or other property whatsoever, the stealing or taking whereof is a felony. 45

of 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.

75. 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.

76. 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.

77. If any person corruptly takes any money or reward, directly or indirectly, under pretence or on account of helping 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. Corruptly taking rewards, &c.
Felony.
Punishment.

20. OFFERING REWARDS UNDER PROMISE OF SECRECY.

78. 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 Offering rewards for return of stolen goods, &c., under promise of secrecy.

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 ~~twenty pounds~~ 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
payment when
not otherwise
provided for.

79. 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.

C A P . X C I I I .

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 moveable, prepared for or employed in any manufacture, or in any branch Maliciously demolishing Churches, &c.

* NOTE.—Qu. "With intent to defraud."—See 18 V. c. 92, s. 10.

Felony. branch thereof, every 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
 Punishment. be imprisoned in any other prison or place of confinement for any term less than two years. 4, 5 V. c. 26, s. 6. 5

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
 Felony. 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
 Punishment. any such building. 12 V. c. 20, s. 3. 10 15 20

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. 25

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. 30

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. 35 40

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 articles of any kind belonging to such ship or vessel, such offender shall be guilty of 45

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. 11.

Felony.
Punishment.

5 **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. 10, 11 V. c. 4, s. 6,---14, 15 V. c. 2, s. 2.

Maliciously throwing or placing gun-powder with evil intents.

Felony.
Punishment.

20 **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. 4, 5 V. c. 26, s. 17---18 V. c. 92, s. 35.

Setting fire to stacks of hay, grain, &c.

30 **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. 10, 11 V. c. 4, s. 7.

Attempts to set fire to buildings, vessels, stacks, &c.

Felony.
Punishment.

40 **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. 4, 5 V. c. 26, s. 18.

Maliciously destroying hop-binds, &c.
Felony.
Punishment.

45 **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 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

Maliciously destroying roots, plants, &c.

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* Note.—The periods follow 10 V. c. 92, s. 35 & 14, 16 V. c. 9, s. 2.

\$4.

Penalty. 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 ~~twenty shillings~~, as to the Justice seems meet. 4, 5 V. c. 26, s. 22.

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. **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 moveable, 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. **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 moveable, 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 banks of Felony. **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

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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.

canals, rivers, &c.

Felony. Punishment.

not less than Two years

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.

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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, 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.

not less than Two years

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.

24. If any person unlawfully and maliciously cuts, breaks, barks, roots up, or otherwise destroys or damages the whole or any

Maliciously destroying

trees in pleasure grounds, &c. 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 ~~one pound~~), shall be guilty of a misdemeanor, and be punished accordingly. 4, 5 V. c. 26, s. 19.

Or elsewhere to the amount of £1.

\$ 4

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 to the amount of ~~one shilling~~ 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 ~~one pound~~ as such Justice may award. 4, 5 V. c. 26, s. 20.

Maliciously destroying trees in any place to the amount of one shilling.

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4 .00 }

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 ~~two pounds~~ as to the Justice may seem meet. 4, 5 V. c. 26, s. 21.

Maliciously destroying plants, &c., in gardens.

\$ 8.

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 ~~one pound~~, as to the Justice may seem meet. 4, 5 V. c. 26, s. 23.

Maliciously destroying fences, &c.

\$ 4

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 ~~five pounds~~. 4, 5 V. c. 26, s. 24.

Maliciously damaging any property.

\$ 20

Penalty.

29. In case of private property, the sum of money in the last section mentioned shall be paid to the party aggrieved, except

Application of.

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.

10 **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, 15 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 20 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 25 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.

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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, 30 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.

35 **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 40 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.

45 **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 be committed from malice conceived against the owner of the property

Malice defined.

property in respect of which it is committed or otherwise. 4,
5 V. c. 26, s. 25.

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.

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.

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.

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

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

Seizure.

Protection of searchers, seizers, &c.

When gunpowder, &c., to be forfeited.

How penalties enforced.

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

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10 **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.

15 **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.

CAP. XCIV.

An Act respecting Forgery.

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

- Forgery of the Great Seal.** **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. 5
- Forging the Governor's Seal at Arms, &c.** **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 guilty of felony, and shall be imprisoned in the Penitentiary, for any term not more than fourteen years, nor less than five years. 10, 11 V. c. 9, s. 2. 10
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- Forging Debentures, &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. 25
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- Land Scrip**
- Wills, marriage licenses, &c.**
- Bank notes, &c.**
- Felony.**
- Punishment.**
- 4.**

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.

Punishment of death superseded.

Substituted punishment.

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 enrollment or 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 Province, every 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. 5.

Forging, &c. Letters Patent.

Felony.

Punishment.

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

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

Felony.

Punishment. imprisoned in the Penitentiary, for any term not more than ten years, nor less than four years. 10, 11 V. c. 9, s. 6.

False personation of stockholder, &c. 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. See 14, 15 V. c. 2, s. 2.

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

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.

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.

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

Felony.
Punishment.

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,--14, 15 V. c. 2, s. 2.

Having in possession certain forged instruments, 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

Forging engraving of bills, notes, &c.

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.

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 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

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

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.

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 passenger tickets.

15. If any person forges, counterfeits or imitates any Postage Stamp issued or used under the authority of the Post Office Act, 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 Post Master 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.

Forging Postage Stamps.

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,

Forgeries purporting to have been else-

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where than in Canada. 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.

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

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 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 do or cause 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

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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.

Where Offenders and Accessories Triable, &c.

20. 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.

21. 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.

22. 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*.

23. When the having any matter in the custody or possession of any person is in this Act expressed to be an offence, if

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in illegal possession, &c. 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, 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 alledge 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.

When must be corroborated.

Past offences provided for.

24. 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.

25. 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.

C A P . X C V .

An Act respecting Lotteries.

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

1. If any person makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme, or plan, for advancing, lending, giving, selling, or in any way disposing of any property, either real or personal, by lots, cards, tickets, or any mode of chance whatever, or sells, barter, exchanges, or otherwise disposes of, or causes or procures, or aids, or assists in, the sale, barter, exchange, or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket, or other means or device, for advancing, lending, giving, selling, or otherwise disposing of any property, real or personal, by lots, tickets, or any mode of chance whatever, such person shall, upon conviction thereof, before any Mayor, Alderman, or other Justice of the Peace, upon the oath of any one or more credible witnesses, or upon confession thereof, forfeit the sum of ~~Five Pounds~~ for each and every such offence, together with costs, to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of any such Mayor, Alderman, or other Justice of the Peace, of the city, town, county or place where such offence has been committed, which said forfeiture shall be applied half to the informer, and the other half shall be paid to the Treasurer or Chamberlain of the Municipality in which such offence was committed, and shall form part of the funds thereof. 19 V. c. 49, s. 1.

Penalty for making or publishing a lottery or scheme of any kind.

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How enforced and applied.

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2. Any person buying, bartering, exchanging, taking or receiving any such lot, card, ticket, or other device as in the first section of this Act mentioned, shall, upon conviction thereof, in like manner as therein mentioned, forfeit the sum of ~~Five Pounds~~ for each offence, to be recovered and applied as aforesaid. 19 V. c. 49, s. 2.

Penalty for buying or receiving lottery tickets.

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3. Any sale, loan, gift, barter or exchange of any real or personal property, by any lottery, ticket, card, or other mode of chance whatever, depending upon, or to be determined by chance or lot, shall be void to all intents and purposes whatsoever, and all such real or personal property so sold, lent, given, bartered or exchanged, shall be forfeited to such person as will sue for the same by action, or information in any Court of Record in this Province. 19 V. c. 49, s. 3.

Sale, gifts, &c., founded on lotteries to be null and void.

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4. No such forfeiture shall affect any right or title to such real or personal property acquired by any *bonâ fide* purchaser for valuable consideration without notice. 19 V. c. 49, s. 3.

As to purchasers without notice.

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Committal for non-payment of penalties.

5. If any person so convicted as aforesaid, has not sufficient goods and chattels whereon to levy the penalties authorized by this Act, or does not immediately pay the said penalties, or give security for the same, such Mayor, Alderman, or other Justice, convicting such person, shall commit him to the common Gaol of the County or District in which the offence was committed, for a period not exceeding three months, unless such fine and costs be sooner paid. 19 V. c. 49, s. 4.

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Act to extend to publication of foreign lottery schemes.

6. The provisions of this Act shall extend to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and to the sale, or offer for sale, of any ticket, chance, or share, in any such lottery, or to the advertisement for sale of such ticket, chance or share. 19 V. c. 49, s. 5.

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Interpretation clause.

7. The term "personal property" in this Act, shall include every description of money, chattel and valuable security, and every kind of personal property whatever; and the term "real property" shall include every description of land, and all estates and interests therein. 19 V. c. 49, s. 6.

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Appeal from convictions under this Act.

8. Any person convicted under this Act shall have the same right of appeal from the judgment of the convicting Justice, as in other cases of summary convictions, where an appeal is allowed by law. 19 V. c. 49, s. 7.

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Act not to extend to bona fide division of property in common.

9. Nothing in this Act contained shall prevent joint tenants, or tenants in common, or persons having joint interests, *droits indivis*, in any real or personal property, from dividing such property by lot or chance in the same manner as if this Act had not been passed. 19 V. c. 49, s. 8.

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C A P. X C V I .

An Act respecting cruelty to Animals.

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

1. If any person wantonly, cruelly, or unnecessarily beats, binds, illtreats, abuses or tortures any Horse, Mare, Gelding, Bull, Ox, Cow, Heifer, Steer, Calf, Mule, Ass, Sheep, Lamb, Pig or other Cattle, or any Poultry, or any Dog, or domestic Animal or Bird, or if any person driving any Cattle or other animal, is by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal, every such offender, being convicted of any or either of the said offences before any one Justice of the Peace for the City, Town, District or County in which the offence has been committed, shall, for every such offence, forfeit and pay (over and above the amount of the damage or injury, if any, done thereby, which damage or injury shall and may be ascertained and determined by such Justice,) such a sum of money not exceeding ~~two pounds ten shillings~~ ~~nor less than five shillings~~, with costs, as to such Justice seems meet. 20 V. c. 31, s. 1.

Penalty on persons guilty of cruelty to animals.

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Penalty and damages how enforced.

2. The offender shall in default of payment be committed to the Common Gaol or house of Correction, for the City, Town, District or County in which the offence was committed, there to be imprisoned for any time not exceeding fourteen days. 20 V. c. 31, s. 1.

In default.

3. Nothing in this Act contained shall prevent or abridge any remedy by action against the employer of any such offender where the amount of the damage is not sought to be recovered by virtue of this Act. 20 V. c. 31, s. 1.

As to preventing, &c., any remedy by action, &c.

4. Nothing hereinbefore contained shall make it unlawful for any person to bind any sheep, lambs, calves or pigs for the purpose of conveying and delivering them to or at any market, at a distance not exceeding fifteen miles from the owner's house or premises; but such animals shall not remain so bound for a longer space than half an hour after their arrival at such market. 20 V. c. 31, s. 1.

As to binding animals carried to market.

5. When any of the said offences happen, any constable or other peace officer, or the owner of any such horse, cattle, animal or poultry, upon view thereof, or upon the information of any other person (who shall declare his or their name or names and place or places of abode, to the said constable or other peace officer) may seize and secure by the authority of this Act, and forthwith and without any other authority or warrant, may

Warrant not required by those who see the offence committed.

may convey any such offender before a Justice of the Peace within whose jurisdiction the offence has been committed, to be dealt with according to law ; and such Justice shall forthwith proceed to examine upon oath any witness or witnesses who appear or are produced to give information touching any such offence, which oath the said Justice may administer. 20 V. c. 31, s. 4.

Committal of persons apprehended and refusing to give their names.

6. If any person apprehended for having committed any offence against this Act refuses to discover his name and place of abode to the Justice before whom he is brought, such person shall be immediately delivered over to a constable or other peace officer, and shall by him be conveyed to the Common Gaol or House of Correction for the City, Town, District or County within which the offence has been committed, or in which the offender has been apprehended, there to remain for a space not exceeding one month, or until he makes known his name and place of abode to the said Justice. 20 V. c. 31, s. 5.

Limitation of suits.

7. The prosecution of every offence punishable under this Act must be commenced within three months next after the commission of the offence, and not otherwise ; and the evidence of the party complaining shall be admitted in proof of the offence, and may be accepted as sufficient in the absence of any other evidence. 20 V. c. 31, s. 6.

Evidence.

Committal of offender for non-payment of penalty damages.

8. In every case of a conviction under this Act where the sum awarded for the amount of the damage or injury done, or imposed as a penalty by any such Justice as aforesaid, for any offence contrary to this Act, is not paid either immediately upon or after the conviction, or within such period as such Justice at the time of the conviction appoints, such Justice (unless 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 fourteen days, where the amount of the sum awarded or the penalty imposed, or both (as the case may be) together with the costs, do not exceed ~~five pounds~~, and for any term not exceeding two months where the amount with costs exceeds five pounds ; the commitment to be determinable in each of the cases aforesaid upon payment of the sum or sums awarded and costs. 20 V. c. 31, s. 7.

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Summons to offender in certain cases.

9. In all cases in which no other mode of proceeding is specially provided or directed by this Act, and in any case where the person is not conveyed before any Justice by the authority of this Act, any such Justice as aforesaid, upon information or complaint made by any person of any offence against the provisions of this Act, within fourteen days next after the commission of the offence, shall summon the party accused to appear before such Justice, or before any other Justice of

of the Peace, at a time and place to be by him named, and either on the appearance of the party accused or in default thereof, such Justice or any other Justice, at the time and place appointed for such appearance, may proceed to examine into the matter, and upon due proof made thereof by voluntary confession of the party, or by oath of a credible witness, shall award, order, give judgment, or convict for the damage or injury, penalty or forfeiture, as the case may be. 20 V. c. 31, s. 8.

Proceedings on day appointed for his appearance.

10. In every case where there is a conviction for any offence contrary to this Act, the same shall be drawn or made out according to the form following, or to the effect thereof, or as near thereto as may be : 20 V. c. 31, s. 9.

Form of conviction provided.

County, [or as the case may be] of } Be it remembered, that on the } day of , in the year of Our Lord, } at in the County [or as the case may be] of Her Majesty's Justices of the Peace for the said County, [or as the case may be], for that he the said A. B. on the day of , in the year , at in the said , did [here specify the offence,] and I, the said J. P., do adjudge the said A. B. for his said offence, to forfeit and pay the sum of [here state the penalty actually imposed, or the penalty and also the amount of damages for the injury done, or as the case may be], and also to pay the sum of for costs, and in default of immediate payment of the said sums, to be imprisoned in the [and as the case may be], to be there kept to hard labour for the space of , unless the said sums shall be sooner paid : and I direct that the said sum of [the penalty] shall be paid as follows, that is to say : one moiety thereof to the of the said , of , to be by applied according to ; and the other moiety thereof, to C. D., of , the prosecutor, [or as the case may be] ; and that the said sum of [the sum for the amount of injury done, if any sum is awarded] shall be paid to E. F. [or the said C. D. as the case may be] ; and I order that the said sum of for costs shall be paid to the said C. D.

The form.

Given under my hand and seal, the day and year first above mentioned.

J. P. [L. S.]

11. A summons issued by any such Justice, requiring the appearance of an offender against any of the provisions of this Act, shall be deemed to be well and sufficiently served, in case either

Service of summons.

Handwritten initials.

* Note.—This conflicts with the time in s. 8.

either the summons or copy thereof be served personally on such person as aforesaid, or be left at his usual or last known place of abode, in whatever county or place the same may be served or left. 20 V. c. 31, s. 10.

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Penalty on Peace Officers refusing to serve any summons or execute any warrant.

12. If any constable or other Peace Officer refuses or neglects to serve or execute any such summons or warrant, every such Constable or Peace Officer, being convicted thereof upon the information of any person before a Justice of the Peace, shall forfeit such sum not exceeding ~~five pounds~~, as the Justice may award, and in default of payment thereof shall be committed by such Justice to the County Gaol or House of Correction of the City, Town, District or County in which such Justice has jurisdiction, there to be kept for a space of time not exceeding one month, unless the penalty be sooner paid. 20 V. c. 31, s. 11.

Application of penalties.

13. All pecuniary penalties recovered before any Justice of the Peace under this Act, shall be divided, paid and distributed in the following manner, that is to say: one moiety thereof to the Treasurer of the City, Town, Village, Township or Parish in which the offence was committed, to be by such Treasurer applied in repairing streets or roads therein, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to such Justice may seem proper. 20 V. c. 31, s. 12.

And of sums awarded for damages.

14. Every sum of money ascertained, determined, adjudged, and ordered by any Justice of the Peace under this Act to be paid as the amount of any damage or injury occasioned by the commission of any of the offences hereinbefore mentioned, shall be paid to the person who has sustained such damage or injury. 20 V. c. 31, s. 12.

Complainant to be a competent witness.

15. Upon the hearing of any information or complaint under this Act, the person giving or making the information or complaint, or any other person, shall be deemed a competent witness, notwithstanding he may be entitled to part of the pecuniary penalty on the conviction of the offender. 20 V. c. 31, s. 13.

As to suit brought for things done under this Act.

16. All actions and prosecutions brought against any person for any thing done in pursuance or under the authority of this Act, shall be commenced within one month after the fact committed and not afterwards, and shall be brought and tried in the County or place where the cause of action arose, and not elsewhere. 20 V. c. 31, s. 14.

When notice to be given, &c.

17. Notice in writing of any such action, and specifying the cause thereof, shall be given to the defendant fourteen clear days at least before the commencement of any such action. 20 V. c. 31, s. 14.

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18. The defendant in such action may plead the general issue, and give this Act and any other matter or thing in evidence at any trial to be had thereupon. 20 V. c. 31, s. 14. Defendant may plead the general issue.
19. If the cause of action appears to arise from or in respect of any matter or thing done in pursuance and by the authority of this Act, or if any such action be brought after the expiration of one month, or be brought in any other County or place than as aforesaid, or if notice of such action be not given in manner aforesaid, or if tender of sufficient amends be made before such action commenced, or if a sufficient sum of money be by or on behalf of the defendant paid into Court after such action commenced, the jury shall find a verdict, or (if the case be not tried by Jury) Judgment shall be given, for the defendant. 20 V. c. 31, s. 14. Tender of amends.
20. If a verdict pass for the defendant, or if the plaintiff becomes non-suit, or discontinues any such action, or if on demurrer or otherwise judgment be given against him, the defendant shall recover his full costs of suit as between attorney and client, and shall have the like remedy for the same as every defendant may have for costs of suit in other cases at law. 20 V. c. 31, s. 14. As to costs in such suit.
21. And although a verdict be given or judgment be rendered for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the Judge or Judges before whom the trial may be had, certifies his or their approbation of the action and of the verdict (if any) obtained thereupon. 20 V. c. 31, s. 14. Costs restrained unless the Judge certifies.
22. In case any person considers himself aggrieved by adjudication or conviction made by any Justice of the Peace under the authority of this Act, such party on giving fourteen days' notice of such appeal, and of the cause and matter thereof to such Justice, may appeal against such adjudication or conviction, to the next Quarter Sessions, to be held next after the expiration of the said fourteen days, in or for the town, city, riding, district, county or division within which such adjudication or conviction has been made. 20 V. c. 31, s. 15. Appeal from conviction under this Act.
23. And such Court of Quarter Sessions shall hear and determine the appeal in the same manner and form as appeals are usually conducted in the General Quarter Sessions in that part of the Province in which the appeal is brought, and shall award to the party appealing against, or supporting such adjudication or conviction, such costs as to them the said Justices seem reasonable. 20 V. c. 31, s. 15. Appeals how heard, &c. Costs.
24. Wherever in this Act, with reference to any person, cattle, animal, matter or thing, any word or words, is or are used, importing

Interpretation clause.

importing the singular number or the masculine or feminine gender only, yet such word or words shall be understood to include several persons or animals, as well as one person or animal, and females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction, and where the word "cattle" is used alone in this Act, the same shall be understood and taken for any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep or lamb, or any other cattle or domestic animal. 20 V. c. 31, s. 16. 5 10

Act not to affect Municipal By-laws for the same purpose.

25. Nothing in this Act contained shall be held to repeal any By-laws which may be construed to have reference to any of the provisions, matters and things contained in this Act, made by any Municipal Council under and by virtue of the provisions of the Municipal laws of this Province, excepting in so far as the same may be at variance with the provisions of this Act; but such By-laws, so made, shall remain and continue in full force and effect, until legally repealed or amended. 20 V. c. 31, s. 17. 15

CAP. XC VII.

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,—4, 5 V. c. 26, s. 26.

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, may be punished in the same manner as any accessory before the fact to the same Felony may be punished.

Accessories before the fact.

Punishment.

Prosecution of. 4. The offence of the person so counselling, procuring or commanding, howsoever indicted, 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 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. 5

Where triable. 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 for 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. 15

3. *Accessories after the fact.*

Accessories after the fact. 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. 20 25

Where triable. 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. 30 35

Effect of being once tried.

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 40

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.

C A P. X C V I I I.

An Act respecting the use of Strychnine and other poisons, for the destruction of wild animals.

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 Justice of the Peace, Physician, 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.

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 ~~ten pounds~~ 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.

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.

\$ 40.

C A P.

* NOTE — As to 12 V. c. 60, s. 1, See 12 V. c. 60, s. 4,—14, 15 V. c. 61, s. 5, 19 V. c. 94,—22 V. c. 103, s. 1.

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 :

1. *Arrest of Offenders caught in the act.*

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.

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

2. *Search Warrant.*

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.

When search Warrant may be granted.

3. *Arrest of Persons in possession of goods supposed to have been stolen.*

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.

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

4. *Arrest of Offenders caught in the Night.*

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.

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

5. *When a Constable may arrest without Warrant.*

When a constable may arrest without a 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. 5

6. *Detention of the persons arrested.*

Detention of 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. 10

7. *Copies of depositions to Prisoners.*

On what terms prisoners entitled to Copies of depositions. **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 ~~three pence~~ **5 cents** for each folio of one hundred words, deliver to such person copies of such examinations and depositions. 15

When a demand or special order necessary. **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. 20

8. *Bigamy,—place of trial.*

Bigamy where triable. **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. 25

9. *Returning from Transportation or Banishment.*

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. 30

10. *Offences committed near boundaries, &c.*

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.

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

11. *Offences committed during journeys, or commenced abroad.*

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 persons or property while in transitu by land or water—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.

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

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.

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

Receivers.

Persons receiving goods knowing the same to have been stolen, where triable. **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 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. 5

When offences committed in one part of the Province may be tried in another. **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. 15

12. Persons injured abroad and dying in Canada.

When persons injured abroad die in Canada, where offenders triable. **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. 20

Translator

Indictment.

13. INTERPRETATION.

Interpretation of certain words. **18.** In the construction of the Consolidated Statutes of Canada, the word "indictment" shall be understood to include "information," "inquisition" and "presentment" as 40

as well as indictment, and also any plea or other pleading, and any Nisi Prius Record; and the terms "finding of 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.

14. *Sexes.*

10 **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.

Genders, numbers, &c.

15. *Indictments.*

20 **20.** Except in cases of high treason, it is not necessary for any indictment, to be written on parchment. 18 V. c. 92, s. 5.

When indictment be on parchment.

25 **21.** It is not necessary to state any venue in the body of any indictment, and the County, City or other jurisdiction named in the margin thereof, shall be the venue for all the facts stated in the body of the indictment; but in case local description be required, such local description shall be given in the body thereof. 18 V. c. 92, s. 24.

Not necessary to state venue in the body of.

30 **22.** Benefit of Clergy having been abolished shall not prevent the joinder in an indictment of any counts which might have been joined before such abolition. 4, 5 V. c. 24, s. 19.

Benefit of Clergy being abolished, not to prevent joinder of counts.

16. *Form of for Murder or Manslaughter.*

35 **23.** In any indictment for murder or manslaughter it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused, but it shall be sufficient in every indictment for murder, to charge that the defendant did feloniously, wilfully and of his malice aforethought kill and murder the deceased; and in every indictment for manslaughter, to charge that the defendant did feloniously kill and slay the deceased. 18 V. c. 92, s. 6.

Indictment for murder or manslaughter.

Translator

17. *Form of Indictments or informations in Felony and Misdemeanor.*

24. In case in any Indictment or information for Felony or Misdemeanor, it be requisite to state the ownership of any property real or personal, which belongs to or is in possession of more than one person, whether such persons be partners in trade, joint tenants, parceners 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. 4, 5 V. c. 24, s. 42. 5

25. In case in any indictment or information for Felony or Misdemeanor, it be necessary for any purpose to mention any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall extend to all joint-stock companies and trustees. 4, 5 V. c. 24, s. 42. 10

26. In any Indictment or Information for Felony or Misdemeanor committed: 1. In, or upon, or with respect to any Church, Chapel, or Place of Religious Worship,—or 2. To any Bridge, Court, Court-house, Gaol, House of correction, Penitentiary, Infirmary, Asylum, or other public building,—or 3. To any canal, lock, drain or sewer erected or maintained in whole or in part at the expense of the Province, or of any division or sub-division thereof,—or 4. with respect to any materials, goods, or chattels, provided for or at the expense of the Province,—or of any division or sub-division thereof, to be used for making, altering or repairing any bridge or highway, or any Court or other such building, canal, lock, drain, or sewer as aforesaid, or to be used in or with any such work, it shall not be necessary to state any such property, real or personal, to be the property of any person. 4, 5 V. c. 24, s. 43. 15

27. In any Indictment or information for Felony or Misdemeanor, committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence or other thing erected or provided in pursuance of any Act in force in this Province, for making any turnpike road, or to any conveniences or appurtenances thereunto respectively belonging, or to any materials, tools or implements provided for making, altering, or repairing any such road, it shall be sufficient to state any such property to belong to the Trustees or Commissioners of such road, without specifying the names of any such Trustees or Commissioners. 4, 5 V. c. 24, s. 44. 20

18. *In Forgery.*

28. In any indictment for forging, uttering, stealing, embezzling, destroying or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same is 25

In case of partners, joint owners, &c., it shall be sufficient to name one of such partners, &c.

And so as to joint stock companies and trustees.

When not necessary to state property to be the property of any person.

When property in roads, &c., may be laid in the trustees and commissioners without naming them.

Indictment for Forgery &c., description of instrument

is usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same or the value thereof. 18, V. c. 92, s. 7.

5 **29.** In any indictment for forging, uttering, disposing of, or putting off any instrument whatever, or for obtaining any property by false pretences, it shall be sufficient to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offences mentioned in this section, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with intent to defraud. 18 V. c. 92, s. 10.

How intent to defraud to be laid.

15 **30.** In any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter or thing whatsoever has been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever has been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter or thing. 18 V. c. 92, s. 8.

Indictment for engraving, &c., description of instrument.

19. *Description of Instruments generally.*

31. In all other cases, whenever it is necessary to make an averment in an indictment, as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or of any part thereof. 18 V. c. 92, s. 9.

Description of instruments generally.

35 **32.** In case in any indictment it be necessary to make an averment as to any money or note of any Bank, it shall be sufficient to describe such money or bank note, simply as money without allegation, so far as regards the description of the property, specifying any particular coin or bank note, and such averment shall be sustained by proof of any amount of coin or of any bank note, although the particular species of coin of which such amount was composed, or the particular nature of the bank note, be not proved. 18 V. c. 92, s. 20.

What necessary in describing money or bank notes.

45 **33.** In any indictment for stealing any written or printed Evidence of title to any real estate, it shall be sufficient to allege the thing stolen to be evidence of the title, or of part of the title of the person or of some one of the persons having a present

Or in describing evidence of title, etc.

present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof; and it shall not be necessary to allege the thing stolen to be of any value. 4, 5 V. c. 25, s. 27.

For Embezzlement against Clerks, &c., distinct acts may be charged in the same indictment.

34. In any Indictment for embezzlement against any Clerk or Servant, or any person employed for the purpose or in capacity of a Clerk or Servant, it shall be lawful to charge in the indictment and to proceed against the offender for any number of distinct acts of embezzlement, not exceeding three, committed by him against the same master within the space of six months from the first to the last of such acts; and in every such indictment, except where the offence relates to any chattel, it shall be sufficient to allege the embezzlement to have been of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if it be proved that the offender embezzled any amount, although the particular species of coin or valuable security of which such amount was composed be not proved, or, if it be proved that he embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security was delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part was returned accordingly. 4 & 5 V. c. 25, s. 40.

False pretences.

35. In any Indictment for obtaining or attempting to obtain any property by false pretences, with intent to defraud, it shall be sufficient to state that the property was obtained or attempted to be obtained by the defendant by false pretences with intent to defraud, without any further or more particular statement of such false pretences. 18 V. c. 92, s. 12.

In an Indictment for stealing a count for receiving may be added.

36. In any Indictment for feloniously stealing property, a Count may be added for feloniously receiving the same property knowing it to have been stolen; and in any Indictment for feloniously receiving property, knowing it to have been stolen, a Count may be added for feloniously stealing the same property. 12 V. c. 21, s. 1.

And the prosecutor shall not be put to his election.

37. Where any such Indictment has been found against any person, the prosecutor shall not be put to his election, but the Jury may find a Verdict of Guilty, either of stealing the property or of receiving it knowing it to have been stolen, and if such Indictment be found against two or more persons, the Jury may find all or any of the said persons guilty, either of stealing the property or of receiving it, knowing it to have been stolen; or may find one or more persons guilty of stealing the property, and the other or others of them guilty of receiving it knowing it to have been stolen. 12 V. c. 21, s. 1.

38. If upon the trial of two or more persons indicted for jointly receiving any property, it be proved that one or more of such persons separately received any part of the property, the Jury may convict such of the said persons as are proved to have received any part of such property. 18 V. c. 92, s. 17.

Where persons indicted for receiving jointly, are proved to have received separately.

20. *Perjury, &c.*

39. In any indictment for perjury, or for unlawfully, illegally, falsely, fraudulently, deceitfully, maliciously or corruptly, taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed. 18 V. c. 92, s. 21.

Perjury—form of indictment.

40. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly, to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, whenever such perjury or other offence aforesaid has been actually committed, to allege the offence of the person who actually committed such perjury or other offence, in the manner hereinbefore mentioned, and then to allege that the Defendant unlawfully, wilfully and corruptly, did cause and procure the said person, the said offence in manner and form aforesaid to do and commit; and whenever such perjury or other offence aforesaid has not actually been committed, it shall be sufficient to set forth the substance of the offence charged upon the Defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury. 18 V. c. 92, s. 22.

Indictment for subornation of perjury, &c

41. In the Indictment for any Felony committed after a previous conviction for Felony, it shall be sufficient to state that the offender was at a certain time and place convicted of Felony, without otherwise describing the previous Felony. 4, 5 V. c. 24, s. 30, *part.*

Form of Indictment after a former conviction.

21. *Returning from Transportation or Banishment.*

42. In any Indictment or information against any offender for being at large in this Province contrary to the provisions of any

Returning from transportation.

any Act in force in this Province, or contrary to any sentence of transportation or banishment, it shall be sufficient to allege the sentence or order of transportation or banishment of such offender, without alleging any indictment, information, trial, conviction, judgment or other proceeding, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to such offender. 4, 5 V. c. 24, s. 26. 5

22. RECEIVERS AND ACCESSORIES.

Receivers and Accessories. 43. Any number of accessories to any felony or receivers at different times of stolen property, the subject of such felony may be charged with the substantive felonies in the same indictment, notwithstanding the principal felon be not included in the same indictment, or be not in custody or amenable to Justice. 18 V. c. 92 s. 18. 10

23. DILATORY PLEAS.

Dilatory Pleas. 44. No indictment or Information shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or of wrong addition of any party offering such plea, if the Court be satisfied, by affidavit or otherwise, of the truth of such plea; but in such case the Court shall forthwith cause the Indictment or Information to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded. 4, 5 V. c. 24, s. 45. 20

Matters unnecessary to be proved need not be averred. 45. No indictment for any offence shall be held insufficient for want of the averment of any formal matter, or matter unnecessary to be proved. 18 V. c. 92, s. 25. 25

When objections founded on formal defects to be taken, and how amended. 46. Every objection to any indictment for any formal defect apparent on the face thereof, must be taken by demurrer or motion to quash the indictment, before the Jury are sworn, and not afterwards; and every court before which any such objection is taken, may if it be thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared. 18 V. c. 92, s. 26. 30

24. *Standing Mute.*

Standing mute. 47. If any person being arraigned upon or charged with any Indictment or information for Treason, Felony, Piracy or Misdemeanor, stands mute of malice, or will not answer directly to the Indictment or information, the Court may order the proper Officer to enter a plea of "Not Guilty" on behalf of such person; and the plea so entered shall have the same force and effect as if such person had actually pleaded the same. 4, 5 V. c. 24, s. 15. 35

48. In any plea of autrefois convict or of autrefois acquit, it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment. 18 V. c. 92, s. 27. Plea of autrefois acquit or convict.

25. *Plea of Not Guilty.*

5 49. If any person, whatever, being arraigned upon any indictment for treason, felony or piracy, pleads thereto a plea of "not guilty," such person shall, by such plea, without any further form, be deemed to have put himself upon the Country for trial, and the Court shall, in the usual manner, order a Jury for the trial of such person accordingly. 4, 5 V. c. 24, s. 14. Plea of not guilty.

not nisi damnum

26. *Plea of Attaint.*

50. No plea setting forth any Attainder shall be pleaded in bar of an Indictment, unless the Attainder be for the same offence as that charged in the Indictment. 4, 5 V. c. 24, s. 17. Of Attaint.

27. *Forms—Indictment.*

15 51. Indictments may be in the following forms in charging the offences to which such indictments severally relate; and in offences not enumerated herein, the said forms shall guide as to the manner in which offences shall be charged, so as to avoid surplusage and the averment of matters not required to be proved. 18 V. c. 92, s. 47. Forms of Indictment.

Simple Larceny.

20 County or District } The Jurors for our Lady the Queen, upon
of , to wit : } their oath present, that A. B., on the first
day of September, in the year of our Lord, one thousand eight
hundred and fifty-four, at
in the County or District of , did feloniously steal a gold
25 watch of C. D. Simple Larceny.

False Pretences.

30 County or District } The Jurors for our Lady the Queen, on
of , to wit : } their oath present, that A. B., on the first
day of September, in the year of our Lord, one thousand eight
hundred and fifty-four, at
30 in the County or District of , unlawfully, fraudulently and
knowingly, by false pretence, did obtain from one C. D. six
yards of muslin, of the goods and chattels of the said C. D.,
with intent to defraud. False pretences.

Embezzlement.

35 County or District } The Jurors for our Lady the Queen, upon
of , to wit : } their oath present, that A. B., on the
day Embezzlement.

day of _____ in the year of our Lord, one thousand eight hundred and _____, at _____ in the County or District of _____, being a servant (or clerk) then employed in that capacity by one C. D., did then and there in virtue thereof, receive a certain sum of money, to wit, to the amount of _____ for and on account of the said C. D., and the said money did feloniously embezzle. 5

Stealing Money.

Stealing money. County or District } The Jurors for our Lady the Queen, upon of _____, to wit: } their oath present, that on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____, A. B., at _____, in the County or District of _____, did feloniously steal a certain sum of money, to wit, to the amount of _____ ~~pounds~~, the property of one C. D. 10

dollars

Murder.

Murder. County or District } The Jurors for our Lady the Queen, upon of _____, to wit: } their oath present, that A. B., on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____, at _____, in the County or District of _____, did feloniously, wilfully, and of his malice aforethought, kill and murder one C. D. 15

Manslaughter.

Manslaughter. County or District } Same as last form, omitting "wilfully, of _____, to wit: } and of his malice aforethought," and 20 substituting the word "slay" for the word "murder."

Translator

Perjury.

Perjury. County or District } The Jurors for our Lady the Queen, upon of _____, to wit: } their oath present, that heretofore, to wit, at the Assizes holden for the County or District of _____, on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, before _____, one of the Justices of our Lady the Queen, a certain issue between one E. F. and one G. H. in a certain action of covenant, was tried, upon which trial A. B. appeared as a witness for and on behalf of the said E. F., and was then and there duly sworn before the said _____, 30 and did then and there, upon his oath aforesaid, falsely, wilfully and corruptly depose and swear in substance and to the effect following, that he saw the said G. H. duly execute the deed on which the said action was brought, which fact was material to the said issue, whereas, in truth, the said A. B. did not see the said G. H. execute the said deed, and the said deed was not executed by the said G. H., and the said A. B. did thereby commit wilful and corrupt perjury. 35

Subornation

Subornation of Perjury.

County or District } Same as last form to the end, and then proceed :--And the Jurors further present, that
 of , to wit : } Subornation of.
 before the committing of the said offence by the said A. B., to
 wit, on the day of , in the year of our Lord one
 5 thousand eight hundred and , C. D., unlawfully, wil-
 fully and corruptly did cause and procure the said A. B. to do
 and commit the said offence in manner and form aforesaid.

28. *Making up Records.*

52. In making up the record of any conviction or acquittal on any indictment, it shall be sufficient to copy the indictment
 10 with the plea pleaded thereto, without any formal caption or heading, and the statement of the arraignment and the proceedings subsequent thereto, shall be entered of record in the same manner as before the passing of this Act, subject to any such alterations in the forms of such entry, as
 15 may from time to time be prescribed by any rule or rules of the Judges of the Superior Courts of Common Law in Upper Canada, or of the Queen's Bench in Lower Canada. 18 V. c. 92, s. 4. Making up records.

29. *Challenging over Twenty.*

53. If any person indicted for Treason, Felony or Piracy, challenges peremptorily a greater number of the Jury than
 20 he is entitled by Law to challenge, every such challenge beyond the number allowed by Law, shall be void, and the trial shall proceed as if no such challenge had been made.
 4, 5 V. c. 24, s. 16. Challenging over twenty.

30. *No Inquiry into Prisoner's Lands.*

54. In the case of any person indicted for Treason or Felony, the Jury empannelled to try such person shall not be charged
 25 to inquire concerning his lands, tenements or goods, nor whether he fled for such Treason or Felony. 4, 5 V. c. 24, s. 18. No inquiry upon prisoner's lands.

31. *Full Defence.*

55. All persons tried for felonies shall be admitted, after the close of the case for the prosecution, to make full answer and
 30 defence thereto by Counsel learned in the law, or by Attorney in the Courts where Attornies practise as Counsel. 4, 5 V. c. 24, s. 9,---20 V. c. 27, s. 4. Full defence.

32. *Inspection at Trial.*

56. All persons under trial shall be entitled, at the time of their trial, to inspect without fee or reward all depositions (or
 35 their trial, to inspect without fee or reward all depositions (or copies Persons under trial may inspect copies

pect all depositions. copies thereof,) taken against them, and returned into the Court before which such trial is had. 4, 5 V. c. 24, s. 13.

57. In all cases of summary conviction, persons accused shall be admitted to make their full answer and defence, and to have all witnesses examined and cross-examined by Counsel or Attorney. 4, 5 V. c. 24, s. 10,—and 20 V. c. 27, s. 4.

58. If upon the trial of any person indicted for embezzlement as a clerk or servant or as a person employed in the capacity of clerk or servant, it be proved that he took or disposed of the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the Jury may return as their verdict that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant or person employed in the capacity of a clerk or servant, as the case may be, and thereupon such person shall be punished in the same manner as if he had been convicted on an indictment for such larceny. 18 V. c. 92, s. 16.

59. If upon the trial of any person indicted for larceny, it be proved that he took or disposed of the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the Jury may return as their verdict, that such person is not guilty of larceny but is guilty of embezzlement, and thereupon such person shall be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, and no person so tried for embezzlement or larceny as aforesaid, shall be afterwards prosecuted for larceny or embezzlement upon the same facts. 18 V. c. 92, s. 16.

60. In case of embezzlement or of obtaining money or bank notes under false pretences, it shall be sufficient to describe such money or bank notes, simply as money, without allegation so far as regards the description of the property, specifying any particular coin or bank note, and such averment shall be sustained by proof that the offender embezzled or obtained any piece of coin or any bank note, or any portion of the value thereof, although such piece of coin or bank note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part has been returned accordingly. 18 V. c. 92, s. 20.

61. If upon the trial of any person for larceny, it appears that the property taken was obtained by such person by fraud under circumstances which do not amount to such taking as constitutes larceny, such person shall not by reason thereof be entitled to be acquitted, but the Jury may return as their verdict, that such person is not guilty of larceny, but is guilty of

of obtaining such property by false pretences, with intent to defraud, if the evidence prove such to have been the case, and thereupon such person shall be punished in the same manner as if he had been convicted upon an indictment for obtaining property under false pretences, and no person so tried for larceny as aforesaid, shall be afterwards prosecuted for obtaining property by false pretences upon the same facts. 18 V. c. 92, s. 14.

62. If upon the trial of any person indicted for obtaining any chattel, money or valuable security by any false pretence, with intent to cheat or defraud any person of the same, it be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no such indictment shall be removeable by *certiorari*; and no person tried for such misdemeanor shall be afterwards prosecuted for larceny upon the same facts. 4, 5 V. c. 25, s. 45.

Indictment for obtaining money; &c., if a larceny be proved the party not to be acquitted.

63. If upon the trial of any indictment for larceny, it appears that the property alleged in the indictment to have been stolen at one time was taken at different times, the prosecutor shall not, by reason thereof, be required to elect upon which taking he will proceed, unless it appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings. 18 V. c. 92, s. 19.

Where indictment for larceny is for one taking and several takings appear.

33. *On Trials for Misdemeanor may convict though a Felony be proved.*

64. If upon the trial of any person for any misdemeanor it appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable afterwards to be prosecuted for felony on the same facts, unless the Court before which such trial is had thinks fit in its discretion to discharge the Jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor. 18 V. c. 92, s. 15.

On trials for misdemeanor may convict though a felony be proved.

65. If upon the trial of any indictment for any felony, (except in cases of murder or manslaughter,) the indictment alleges that the defendant did cut, stab or wound any person, and the jury be satisfied that the defendant is not guilty of the cutting, stabbing or wounding charged in the indictment, but be not satisfied that the defendant is guilty of the felony charged in such indictment,

If the indictment alleges that the defendant did cut.

Translator

indictment, the jury may acquit of the felony, and find the defendant guilty of unlawfully cutting, stabbing or wounding, and such defendant shall be imprisoned with hard labour in any Gaol or Prison for any term less than two years or in the Penitentiary for any term not less than two years nor more than five years. 18 V. c. 92, s. 31.

Jury may acquit of felony and convict for assault.

66. On the trial of any person for any of the offences herein before mentioned, or for any felony whatever where the crime charged includes an assault against the person, the Jury may acquit of the felony, and find a verdict of guilty of assault against the person indicted, if the evidence warrants such finding; and the Court shall imprison the person so convicted, for any term not exceeding three years. 4, 5 V. c. 27, s. 37.

Woman tried for murder of her child may be convicted of concealing the birth.

67. If any woman tried for the murder of her child be acquitted thereof, the jury may find, if it so appears in evidence, that she was delivered of a child, and that she did, by secret burying or otherwise disposing of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the Court may pass sentence as if she had been convicted upon an indictment for the concealment of the birth. 4, 5 V. c. 27, s. 14.

If partly only guilty of an attempt to commit a felony.

68. If on the trial of any person charged with any felony or misdemeanor, it appears to the Jury upon the evidence, that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the Jury may return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment. 18 V. c. 92, s. 13. See post s. 130.

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34. EVIDENCE.

In cases of Infanticide.

Evidence in cases of infanticide.

69. No part of the Act passed in the Twenty-first year of the reign of King James the First, intituled, *An Act to prevent the destroying and murdering of bastard children*, shall extend to, or be in force in this Province, and the trial of any woman charged with murder of any issue of her body, male or female, which being born alive, would by law be bastard, shall proceed and be governed by such and the like rules of evidence and presumption, as are by law used and allowed to take place in respect to other trials for murder, and as if the said Act passed in the reign of King James the First had never been made. G. 3, c. 3, L. C.,—2 W. 4, c. 1, s. 1, U. C.

35. *In cases of Rape, &c.*

70. It shall not be necessary upon the trial of any person ^{Rape, &c.} for the crime of buggery, or of rape mentioned in the eighteenth and fifteenth Sections, or of carnally abusing girls under the respective ages of ten and twelve years mentioned in the sixteenth and seventeenth sections of the Act respecting offences against the Person, to prove the emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only. 4, 5 V. c. 27, s. 18.

36. *In cases of Perjury.*

71. A certificate containing the substance and effect only ^{Perjury.} (omitting the formal part) of the indictment and trial for any felony or misdemeanor, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanor, without proof of the signature or official character of the person appearing to have signed the same. 18 V. c. 92, s. 23.

37. *In cases of Returning from Transportation.*

72. The Clerk of the Court or other Officer having the ^{Returning from transportation.} custody of the Records of the Court where any sentence or order of transportation or banishment has been passed or made, or his Deputy, shall, at the request of any person on behalf of Her Majesty, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of any indictment, information, and conviction of such offender, and of the sentence or order for his transportation or banishment, not taking for the same more than five shillings, which certificate shall be sufficient evidence of the conviction and sentence or order for the transportation or banishment of such offender; and every such certificate shall be received in evidence upon proof of the signature of the person signing the same. 4, 5 V. c. 24, s. 27. 4, 5 V. c. 24, s. 30.

Translation wanted.

\$1.00.

38. *In cases of former Conviction.*

73. A certificate containing the substance and effect only, ^{Former conviction.} (omitting the formal part) of the Indictment and conviction for the previous Felony, purporting to be signed by the Clerk of the Court or other Officer having the custody of the Records of the Court where the offender was first convicted, or by the Deputy of such Clerk or Officer, (for which certificate a fee of five shillings and no more, shall be demanded or taken,) shall, upon

\$1.00.

upon proof of the identity of the person of the offender, be sufficient evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed the same 4, 5 V. c. 24, s. 30.

Penalty for uttering false certificate of indictment.

74. If any such Clerk, Officer, or Deputy utters any false certificate of any Indictment and conviction for a previous Felony, or of any sentence or order of transportation or banishment, or if any person, other than such Clerk, Officer, or Deputy, signs any such certificate as such Clerk, Officer or Deputy, or utters any such certificate with a false or counterfeit signature thereto, every such offender shall 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. 24, s. 30. 5
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39. WITNESSES.

Witnesses.

75. If any witness in any Criminal Case cognizable in the Courts of Queen's Bench or Common Pleas, or before any Court of Assize, or of Oyer and Terminer or Gaol Delivery in any part of this Province, resides in any part of the Province without the Jurisdiction of the Court before which such Criminal Case is cognizable, such Court may issue a Writ of Subpœna, directed to such witness in like manner as if such witness was resident within the jurisdiction of the Court, and in case such witness does not obey such Writ of Subpœna, the Court, that issued the same, shall proceed against such witness for contempt or otherwise, or bind over such witness to appear at such days and times as may be necessary, and upon default being made in such appearance, shall cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the Court aforesaid. 9 V. c. 35, s. 1. 20
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Confined in the penitentiary, &c.

76. When the attendance of any person confined in the Penitentiary or in any other Prison or Gaol in this Province, or upon the limits of any Gaol is required in any Court of Assize and Nisi Prius, or of Oyer and Terminer or General Gaol Delivery, or other Court, the Court before whom such Prisoner is required to attend may make order upon the Warden of the Penitentiary, or upon the Sheriff, Gaoler or other person having the custody of such Prisoner, to deliver such Prisoner to the person named in such order to receive him, and such person shall thereupon instantly convey such Prisoner to the place where the Court issuing such order is sitting, there to receive and obey such further order as to the said Court may seem meet: but no Prisoner confined for any debt or damages in a civil suit shall be thereby removed out of the District or County where he is so confined. 4, 5 V. c. 24, s. 11. 35
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40. VARIANCES.

77. When in the indictment or information, whereon a trial is pending before any Court of Queen's Bench, or other Superior Court of Criminal Jurisdiction in Lower Canada, or of Oyer and Terminer or of Gaol Delivery or of Assize and *Nisi Prius* in any part of this Province, any variance appears between any matter in writing or in print produced in evidence, and the recital or setting forth thereof, such Court may cause the indictment or information to be forthwith amended in such particular or particulars by some Officer of the Court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared. 12 V. c. 21, s. 2. Variances.

78. Whenever on the trial of an indictment for any felony or misdemeanor any variance appears between the statement in such indictment and the evidence offered in proof thereof, in names, dates, places or other matters or circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot be prejudiced in his defence on such merits, the Court before which the trial is pending may order such indictment to be amended according to the proof, by some officer of the Court or other person, both in that part of the indictment where the variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such Court thinks reasonable. 18 V. c. 92, s. 1. Court may order indictment to be amended.

79. After any such amendment the trial shall proceed, whenever the same is proceeded with, in the same manner and with the same consequences both with respect to the liability of witnesses to be indicted for Perjury and in all other respects as if no such variance had occurred. 18 V. c. 92, s. 1. And afterwards proceed with the trial.

80. In case such trial is had at *Nisi Prius*, the order for the amendment shall be endorsed on the Record and returned therewith, and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer. 18 V. c. 92, s. 1. If such trial is had at *Nisi Prius*.

81. In all other cases the amendment shall be endorsed on or filed with the indictment, and returned among the proper records of the Court. 18 V. c. 92, s. 1. In all other cases.

82. When any such trial is had before a second Jury, the Crown and the Defendant respectively shall be entitled to the same challenges as they were entitled to at the swearing of the first Jury. 18 V. c. 92, s. 1. Where trial is had before a second jury.

And the verdict to be valid.

83. Every verdict and judgment given after the making of any such amendment shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it is after such amendment has been made. 18 V. c. 92, s. 2. 5

41. *Formal Defects cured after Verdict.*

What defects not to vitiate an indictment after verdict or otherwise.

84. No Judgment upon any Indictment or Information for any Felony or Misdemeanor, whether after verdict or outlawry, or by confession, default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words, "as appears by the record," or of the words "with force and arms," or of the words, "against the peace," nor for the insertion of the words "against the form of the Statute," instead of the words, "against the form of the Statutes" or *vice versa*, nor for that any person mentioned in the Indictment or Information is designated by a name of office or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the Indictment, or exhibiting the Information, or on an impossible day, or on a day that never happened, nor for the want of a proper or perfect venue, where the Court appears by the Indictment or Information to have had jurisdiction over the offence. 4, 5 V. c. 24, s. 46. 10 15 20 25

Certain formal defects shall not stay or reverse judgment after verdict.

85. Judgment after verdict upon an Indictment or Information for any Felony or Misdemeanor, shall not be stayed or reversed for want of a similiter, nor by reason that the Jury process has been awarded to a wrong Officer upon an insufficient suggestion, nor for any misnomer or misdescription of the Officer returning such process, or of any of the Jurors, nor because any person has served upon the Jury who was not returned as a Juror by the Sheriff or other Officer; and where the offence charged is an offence created by any Statute, or subjected to a greater degree of punishment by any Statute, the Indictment or Information shall after verdict be held sufficient if it describes the offence in the words of the Statute creating the offence, or prescribing the punishment. 4, 5 V. c. 24, s. 47. 30 35 40

How a formal record to be drawn up after amendment.

86. If it becomes necessary to draw up a formal record in any case where an amendment has been made as aforesaid, such record shall be drawn up in the form in which the indictment remained after the amendment was made, without taking any notice of the fact of such amendment having been made. 18 V. c. 92, s. 3. 45

42. Officers' Fees.

87. In case any person be charged with Felony, every Officer of the Court before which such person is tried, or any proceeding had with regard to such charge, and who renders any official services in the matter of such charge, or in the course of such trial, to the person so charged with Felony, shall be paid his lawful Fees for all such services out of the Public Funds, in the same manner as other Fees due and payable to them in respect of official services, by them rendered to the Crown in the conduct of public prosecutions, are paid, at the time this Act takes effect, and no such Fees shall in any case be demanded of or be payable by the person charged with such felony. 4, 5 V. c. 24, s. 23.

Clerks to be paid fees from Public Fund.

43. RESTORATION OF STOLEN GOODS.

88. If any person guilty of any such felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or converting or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, be indicted for any offence by or on the behalf of the owner of the property, or his heir, curator, executor, or administrator, and be convicted thereof, the property shall be restored to the owner or his representative, and the Court before whom any such person has been so convicted, may from time to time award writs of restitution for the same property, or order the restitution thereof in a summary manner. 4, 5 V. c. 25, s. 49.

Owner of stolen goods prosecuting to conviction intitled to restitution.

89. If it appears before any award or order be made, that any valuable security has been *bonâ fide*, paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration without any notice and without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, or converted as aforesaid, the Court shall not award or order the restitution of such security. 4, 5 V. c. 25, s. 49.

When restitution not to be made.

44. SENTENCES.

90. Sentence of death may be pronounced after conviction for murder, in the same manner, and the Court before which the conviction takes place shall have the same power in all respects as after conviction for other capital offences. 4, 5 V. c. 27, s. 4.

Sentence of death in cases of murder may be pronounced as in other capital cases.

45. RECORDING SENTENCE.

91. When any offender has been convicted before any Court of Criminal Judicature, of any crime for which such offender

When sentence of death

may be
recorded.

offender is liable to the punishment of death, and the Court is of opinion that, under the particular circumstances of the case, the offender is a fit and proper subject to be recommended for the Royal Mercy, such Court may direct the proper officer then being present in the Court, to require and ask, whether such offender hath or knoweth any thing to say why judgment of death should not be recorded against him, and in case such offender does not allege any matter or thing sufficient in law to arrest or bar such judgment, the Court may abstain from pronouncing Judgment of death upon such offender, and instead thereof may order the same to be entered of record, and thereupon the proper officer shall enter judgment of death on Record against such offender in the proper form, and as if Judgment of death had been pronounced against him in open Court. 4, 5 V. c. 24, s. 33. 5 10 15

Such record to
have the same
effect as if
pronounced.

92. A record of every such judgment shall have the like effect to all intents, and be followed by all the same consequences as if such Judgment had been pronounced in open Court. 4, 5 V. c. 24, s. 34.

Court to direct
execution in
certain cases.

93. When any offender has been convicted before any Court of Criminal Judicature, of an offence for which such offender is liable to and receives sentence of death, and the Court is of opinion that, under the circumstances of the case, the judgment of the law ought to be carried into effect, such Court shall order and direct execution to be done on the offender in the same manner as any Court is empowered to order and direct execution by the Law as it stands at the time of the passing of this Act. 4, 5 V. c. 24, s. 35. 20 25

Not necessary
that judge
should report
capital cases.

94. In the case of any prisoner sentenced to the punishment of death, it shall not be necessary for the Court or Judge before whom such prisoner has been convicted to make any report of the case previously to the sentence being carried into execution. 4, 5 V. c. 24, s. 32. 30

46. *Treatment of Convicts for Murder.*

Prison regula-
tions as to
murderers un-
der sentence.

95. Every person convicted of murder, shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners, and shall be fed with bread and water only, and with no other food or liquor, except in case of receiving the sacrament, or in case of any sickness or wound, in which case the Surgeon of the Prison may order other necessaries to be administered; and no person but the gaoler and his servants, and the chaplain and surgeon of the Prison, shall have access to any such convict, without the permission, in writing, of the Court or Judge before whom such convict has been tried, or of the Sheriff or his Deputy. 4, 5 V. c. 27, s. 5. 35 40 45

47. PUNISHMENT.

Homicide.

96. No punishment or forfeiture shall be incurred by any person who kills another by misfortune or in his own defence, or in any other manner without felony. 4, 5 V. c. 27, s. 8. As to homicide not felonious.

Felonies.

97. Benefit of Clergy with respect to persons convicted of Felony having been abolished in Upper Canada on the thirteenth day of February, one thousand eight hundred and thirty-three, and in Lower Canada from and after the first day of January, one thousand eight hundred and forty-two, no person convicted of Felony shall suffer Death, unless it be for some Felony which was excluded from the benefit of Clergy by the Law in force in that part of this Province in which the trial is had when the benefit of Clergy was abolished therein, or which has been made punishable with death by some Act passed since that time. 4, 5 V. c. 24, ss. 19, 20—3 W. 4, c. 3, s. 25, U. C. See 10, 11 V. c. 9, s. 22. Benefit of Clergy abolished. In what cases sentence of death to be pronounced.

Pillory abolished.

98. Judgment shall not be given and awarded against any person convicted of any offence, that such person do stand in or upon the Pillory. 4, 5 V. c. 24, s. 31. Pillory abolished.

In Penitentiary.

99. The Provincial Penitentiary shall be maintained as a Prison for the confinement and reformation of persons, male and female, lawfully convicted of crime before the duly authorized legal Tribunals of this Province and sentenced to confinement for life or for a term not less than two years; and whenever any offender is punishable by imprisonment, such imprisonment, if it be for life or for two years or any longer term, shall be in the Provincial Penitentiary: But this shall not prevent the reception and imprisonment in the said Penitentiary of any prisoner or prisoners sentenced for any period of time by any Military or Militia Court Martial, or Military authority under any Mutiny Act. 14, 15 V. c. 2, s. 2. The Penitentiary. Imprisonment therein.

100. Every person convicted of Felony not punishable with death shall be punished in the manner prescribed by the Statute or Statutes specially relating to such Felony; and every person convicted of any Felony for which no punishment is specially provided, shall be kept at hard labour in the Provincial 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. 24. Felony not punishable with death, &c., how punishable.

*July 98 1/2
Corrected copy*

Sentence to the Penitentiary to include hard labor.

101. The Sentence of any person to be imprisoned in the Provincial Penitentiary shall (whether expressed or not) include hard labour.

When length of imprisonment in the discretion of the Court.

102. When an offender is by law liable to be punished by imprisonment for life or for any other term, or for a term not exceeding a certain number of years, the length of any such term shall be in the discretion of the Court passing Sentence upon the person convicted.

The same subject

103. When imprisonment is to be awarded for any criminal offence and no definite period is fixed by law, the term of such imprisonment shall always be in the discretion of the Court passing the sentence within such limits, if any, as may be prescribed by any Statute in that behalf.

When imprisonment to be elsewhere than in the Penitentiary.

104. When the Sentence of imprisonment is for a term less than two years, such imprisonment shall, if no other place expressly mentioned, be in the Common Gaol of the locality in which the sentence is pronounced, or if there be no Common Gaol there, then in that Common Gaol which is nearest to such locality, or in some other lawful Prison or place of confinement other than the Provincial Penitentiary in which the sentence of imprisonment may be lawfully executed. 12 V. c. 10, s. 5, No. 21,--12 V. c. 10, s. 5, No. 4. *See Post*, s. 109.

From what period the imprisonment is to be reckoned.

105. The period of imprisonment in the Provincial Penitentiary, in pursuance of any sentence, shall commence on and from the day of passing such sentence, whether the convict upon whom the sentence is passed be removed to the said Penitentiary forthwith, or be detained in custody in any other prison or place of confinement, previously to such removal. 4, 5 V. c. 24, s. 52.

Offence formerly punishable by transportation now punishable by imprisonment in the Provincial Penitentiary.

106. For any offence for which by Law the offender might formerly have been punished by transportation beyond Seas, such offender may, if convicted after the passing of this Act, be punished by imprisonment in the Provincial Penitentiary for any term for which he might have been so transported, or by imprisonment for life, if he might have been punished by transportation for life. 6 V. c. 5, s. 4.

Certain assaults punishable with imprisonment.

107. In case any person be convicted of any of the following offences as misdemeanors, that is to say: 1. Of an assault with intent to commit felony; 2. Of an assault upon any Peace Officer or Revenue Officer in the due execution of his duty; 3. Or upon any person acting in aid of such Officer; 4. Or of an assault upon any person with intent to resist or prevent the lawful apprehension or detainer of the party so assaulting or of any other person, for an offence for which such person

Note—Sections 101 to 104 express the effect of the law, though not distinctly so expressed in the Statutes.

take from corrected copy

less than

is liable by law to be apprehended or detained; 5. Or of an assault committed in pursuance of any Conspiracy to raise the rate of wages, the Court may sentence the offender to be imprisoned for any term ~~not exceeding~~ two years, and may also fine the offender, and require him to find sureties for keeping the Peace. 4, 5 V. c. 27, s. 25.

And sureties of the peace may be required.

108. Whenever sentence is passed for Felony on a person already imprisoned under sentence for another crime, the Court may award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person had been previously sentenced; and where such person is already under sentence of imprisonment, the Court may award sentence for the subsequent offence, to commence at the expiration of the imprisonment to which such person had been previously sentenced, although the aggregate term of imprisonment may exceed the term for which such punishment could otherwise have been awarded. 4, 5 V. c. 24, s. 29.

If a person under sentence for another crime is convicted of felony, &c.

109. When a person has been convicted of an offence for which imprisonment other than in the Penitentiary may be awarded, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour in the common Gaol, or house of correction, and may also direct that the offender shall be kept in solitary confinement, for a portion or for portions of the term of such imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year. 4, 5 V. c. 24, s. 28,---4, 5 V. c. 25, s. 4,---4, 5 V. c. 26, s. 27,---4, 5 V. c. 27, s. 36,---10, 11 V. c. 4, s. 11 See Ante s. 104.

The Court may order hard labor, &c., as part of the sentence of imprisonment.

110. Every male person under the age of eighteen years convicted of any offence under the eleventh, twelfth, thirteenth or fourteenth sections of the Act respecting offences against the person, or under the second, third, eleventh, thirteenth or thirty-sixth sections of the Act respecting malicious offences against property, or convicted of feloniously setting fire to any building or vessel, or to any stack, may, in addition to any other sentence passed upon him, be sentenced to be publicly or privately whipped in such manner and as often, not exceeding thrice, as the Court may direct. 10, 11 V. c. 4, s. 9.

When offender punishable by whipping.

Arson and other

injuries to

not to death?

48. Prerogative of Pardon.

111. The Queen's Majesty, or the Governor, may extend the Royal mercy to any person sentenced to imprisonment by virtue of any of the foregoing Criminal Acts, although he be imprisoned for non-payment of money to some party, other than the Crown. 4, 5 V. c. 26, s. 35,—and c. 25 s. 61. c. 27, s. 39.

Pardon for non-payment of money.

49.

* Q. "less than."

24. s. 36 and c

49. *Effect of Pardons.*Effect of
pardons.

112. When the Queen's Majesty, or the Governor, is pleased to extend the Royal Mercy to any offender convicted of a Felony, punishable with death or otherwise, and by warrant under the Royal Sign Manual, countersigned by one of the Principal Secretaries of State, or by warrant under the hand and seal at arms of such Governor, grants to such offender either a free or a conditional pardon, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the Great Seal of such offender, as to the Felony for which such pardon has been granted: But no free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any Felony committed after the granting of any such pardon. 4, 5 V. c. 24, s. 48.

50. *Undergoing Sentence, equivalent to a Pardon.*Undergoing
sentence equi-
valent to a
pardon.

113. When any offender has been convicted of a Felony not punishable with death, and hath endured the punishment to which such offender was adjudged, the punishment so endured shall, as to the Felony whereof the offender was so convicted have, the like effects and consequences as a pardon under the Great Seal: But nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other Felony. 4, 5 V. c. 24, s. 21.

9
Except per-
jury, &c., no
misdemeanor
to render a
party an in-
competent
witness, &c.

114. Excepting Perjury or subornation of Perjury, when any offender has been convicted in Lower Canada of a Misdemeanor which renders the party an incompetent witness, and has endured the punishment to which he was adjudged, such offender shall not, after the punishment so endured, be deemed to be by reason of such Misdemeanor an incompetent witness in any Court or proceeding Civil or Criminal. 4, 5 V. c. 24, s. 22.

A summary
conviction to
be a bar to
any other
proceeding for
the same
offence.

115. In case any person convicted of an offence punishable upon summary conviction, has paid the sum adjudged to be paid, together with costs, if awarded, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or has been duly discharged from his conviction he shall be released from all further or other proceedings for the same cause 4, 5 V. c. 25, s. 62.

51.

* NOTE.—As to U. C., ~~Sec. 12~~ V. c. 70, and 14, 15 V. c. 66.

51. *Appeals.*

116. 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 and c. 27, s. 33. \

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

117. 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.

118. 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, and c. 27, s. 34.—*See as to U. 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.

~~NOTE.—4, 5 V. c. 25, s. 65, and c. 26 s. 38, limit appeals to cases where the sum exceeds £5 or the imprisonment exceeds one month, or the conviction takes place before one Justice only; c. 27, s. 33, contains no such limit, although the sum may be less than £5, the imprisonment less than one month, and the conviction before a single Justice. It is proposed to follow the last Act which is unlimited and accords with the spirit of 13, 14 V. c. 54 which applies to U. C. only.~~

52. *Estreats.*

Estreat of recognizance, &c.

119. In case any person bound by recognizance for his appearance, (or for whose appearance any other person has become so bound) to prosecute or give evidence in any case of Felony or Misdemeanor, or to answer for any common assault, or to articles of the peace, makes default, the officer of the Court by whom the estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in such list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether by reason of the non-appearance of such person, the ends of Justice have been defeated or delayed.

Recognizances, &c., not to be estreated without Judge's order.

120. Every such officer shall, before any such recognizance be estreated, lay such list, if at a Court of Oyer and Terminer or Gaol Delivery in any District or County, or at any of Her Majesty's Superior Courts of Record in this Province, before one of the Justices of those Courts, respectively, or if at a Session of the Peace, before two of the Justices of the Peace, who attended such Court, who are respectively required to examine such list, and to make such order touching the estreating or putting in process any such recognizance as appears just, subject in Lower Canada, to the provisions of the Act 22 V. c. 28; and no officer of any such Court shall estreat or put in process any such recognizance without the written order of the Justice, or Justices of the Peace before whom respectively such list has been laid. 4, 5 V. c. 24, s. 49.

Admitted in French

53. *Appropriation of Penalties.*

When forfeitures to be paid over to the party aggrieved.

121. 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.

How limited if more than one offender.

122. 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.

123. 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 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,---14, 15 V. c. 95, s. 10,---16 V. c. 178, s. 10 and See c. 103, s. 26.

Limitation as to summary proceedings.

c 24 s 41.

54. *Limitation of Actions and Prosecutions.*

124. All actions and prosecutions to be commenced against any person for any thing done in pursuance of the foregoing criminal Acts, shall be laid and tried in the District, County, or place where the fact was committed, and must be commenced within six months next after the fact committed, and not otherwise. 4, 5, V. c. 25, s. 67,---4, 5 V. c. 26, s. 40.

Actions, &c., to be commenced within 6 months after the fact was committed.

7. unless otherwise provided for (Omitted in Revis.)

125. Notice in writing of such action and of the cause thereof, must be given to the defendant, one month at least before the commencement of the action. 4, 5, V. c. 25, s. 67,---4, 5 V. c. 26, s. 40.

One month's notice to be given.

126. In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon. 4, 5 V. c. 25, s. 67,---4, 5 V. c. 26, s. 40.

Defendant may plead general issue.

127. No plaintiff shall recover in any such action, if tender of sufficient amends be made before such action brought, or if a sufficient sum of money be paid into Court after such action brought by or on behalf of the defendant. 4, 5 V. c. 25, s. 67---4, 5 V. c. 26, s. 40.

Tender of amends, or payment of money into Court---effect of.

128. If a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise, judgment be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the like remedy for the same as any defendant hath by law in other cases, and though verdict be given for the plaintiff in any such action, such 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 thereupon. 4, 5 V. c. 25, s. 67, 4, 5 V. c. 26, s. 40.

If verdict passes for the defendant---he shall recover his full costs.

129. No person shall be prosecuted for any attempt to commit any felony or misdemeanor who has been previously tried for committing the same offence. 18 V. c. 92, s. 13.

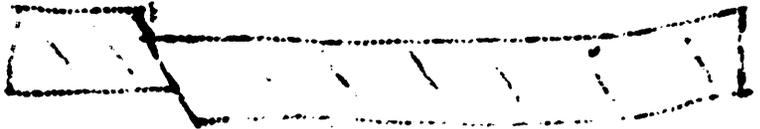
Persons tried for committing, not to be afterwards tried for attempting to commit an offence.

55.

* NOTE.—The 14, 15 V. c. 25, s. 10, and 16 V. c. 178, s. 10, say 6 months and See s. 121.

55. *Felonies within the jurisdiction of the Court of Admiralty.*Admiralty
offences.

130. When any felony punishable under the laws of this Province, has been committed within the jurisdiction of any Court of Admiralty in this Province, the same shall be dealt with, inquired of and tried and determined in the same manner as any other felony committed within that jurisdiction. 5
10, 11 V. c. 4, s. 17.



CAP.

C A P . C .

An Act respecting the qualification of Justices of the Peace.

Translator
to insert the dollar
and cents as the
part has been read
from Mr. Taylor
Copy.

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

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

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. No Attorney, &c., to be Justice of the Peace while practising.

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 soccage, 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 immoveable property, lying and being in this Province, of or above the value of ~~three hundred pounds~~ currency, 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 :

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30 " 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*
" *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
35 " 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,
40 " Parish, or Seigniorly of _____, (*or in the several Townships,*
" Parishes, or Seignories of _____) (*or as the case may be.*)—
" So help me God." 6 V. c. 3, s. 3.

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

4. A certificate of such oath having been so taken and subscribed 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. 5

ctb
20.

Clerks of the Peace to deliver on demand an attested copy of such oath.

5. Every such Clerk of the Peace shall, upon demand, forthwith deliver a true and attested copy of the said Oath in writing to any person paying the sum of ~~one shilling~~ 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. 10

\$100.

Penalty on Justices of the Peace acting without having taken the oath and not being qualified.

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 ~~twenty five pounds currency~~, one moiety to Her Majesty, 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. 15 20 25

Manner of proceeding to enforce such penalty.

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 before 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, Seigniorship or place, and the District or County in which the same are respectively 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 action, suit or information, on payment of such costs to the defendant, as such defendant may be entitled to, according to the course and practice of the Court. 6 V. c. 3, s. 6. 30 35 40

Lands not mentioned in the oath inadmissible in proof of qualification.

8. Upon the trial of any issue in any such action as aforesaid, no lands, tenements, or real estate which are not mentioned in the oath or notice as aforesaid, shall be insisted upon by the defendant as part of his qualification. 6 V. c. 3, s. 7. 45

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 45

ments 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.

10. When the qualification hereby required of 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.

If qualification consists of Rent.

2/

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.

Defendant if successful to recover treble costs.

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.

When proceedings in second actions to be stayed.

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.

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

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.

Persons making false statements on oath guilty of wilful perjury.

Translator to examine

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 action.

Provisions in this Act not to extend to persons holding certain situations. **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 Council 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. 5

Sheriffs and Coroners acting as such disqualified from acting as Justices of the Peace. **17.** No person having, using or exercising the Office of Sheriff or Coroner in and for any District or County in this Province, shall be competent or qualified to be a Justice of the Peace or to act as such for any District or County 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. c. 3. s. 16. 10 15

Fines and penalties to be paid to Receiver General. **18.** 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. 20 c. 3, s. 17. 20

Appointments since 19th June, 1856, provided for. **19.** 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. 25 30

Except in case of judgment suit, &c., Act to apply to past cases. **20.** 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. 35 40

C A P. C I .

An Act respecting the appointment of Magistrates for the more remote parts of this Province.

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

1. The Governor in Council may, from time to time, appoint
 5 fit and proper persons to be and act as Justices of the Peace within, and whose jurisdiction as such Justices of the Peace shall extend over, such part or parts of the said Province not being within the constituted limits of any District or County, and
 10 over such remote parts of Lower Canada although comprised within the constituted limits of a District, as the said Governor may by Proclamation define and declare ; and it shall not be necessary for any such Justice of the Peace to possess any property qualification whatever or to be a stated resident within that
 15 part of the Province for which he may be appointed, or over which his jurisdiction may extend. 9 V. c. 41, s. 1.

Governor may appoint Justices of the Peace for remote parts of the Province, &c.

2. The Justices of the Peace appointed under this Act, shall have, hold and exercise all and every the powers and authority, and be subject in all respects (excepting as to any matters or
 20 things incident to the residence or property qualification, required in cases not within the meaning of this Act) to the requirements of the Laws in force in this Province, regarding the office of Justices of the Peace, in so far as the same may be applicable to the persons appointed under this Act, and not
 25 inconsistent with the removal of the restrictions hereby intended. 9 V. c. 41, s. 2.

But subject to all the other requirements of law.

3. Whenever in the exercise of the powers and authority aforesaid, any Justice of the Peace, appointed under this Act, causes any person to be committed to prison, such Justice may
 30 cause such person or persons to be committed to that Common Gaol in this Province nearest to such Justice at the time when he has occasion to order such commitment, and the Keeper of any such Common Gaol shall receive such person, and him safely keep and detain in such Common Gaol under his custody, until
 35 discharged in due course of law, or bailed, in cases in which bail may by law be taken. 9 V. c. 41, s. 3.

Commitments by such justices to be to the nearest common gaol.

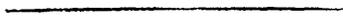
4. In all cases in which, under the requirements aforesaid, an Appeal lies to a Court of General Quarter Sessions of the
 40 Peace, such Appeal shall lie to and may be brought before and heard and determined by that Court of General Quarter Sessions of the Peace, which holds its sittings nearest to the place at which the decision, sentence, order or judgment, to be appealed
 from, was made or rendered, and shall be claimed and allowed, Appeals (when allowed by law) to lie from such justices of the Court of Q. S. nearest to the place where the order, &c.,
 and

appealed from, and exercised, at any time within six months from and has been after the day of the date thereof; But nothing herein con- made. tained shall extend to appeals from sentences, decisions, orders or judgments, made or rendered, by any Justice of the Peace in this Province, appointed otherwise than under the provisions of this Act. 9 V. c. 41, s. 4. 5

Provisions of this Act extended to justices appointed in certain places and for certain purposes.

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5. All the provisions of this Act shall apply to any Officer or Officers in command of any of Her Majesty's Vessels in the Gulf and River St. Lawrence, and to any other person appointed a Justice of the Peace, with instructions to act as such in the Gulf and River St. Lawrence, and on the shores of the said Gulf and River, for the better protection of Her Majesty's subjects engaged in the trade of the Fisheries in the said Gulf and River 10
16 V. c. 15, s. 1.



CAP. CII.

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 :

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.

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

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.

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

Warrant to
apprehend
party against
whom an in-
dictment is
found.

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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 ~~One Shilling~~, 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.

Commitment. 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.

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. 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 aforesaid, 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.

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. Not to prevent the issuing of Bench Warrants.
7. Any Justice or Justices of the Peace may grant or issue any Warrant as aforesaid, 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. Warrant may be issued on Sunday.
8. In all cases when a charge or complaint for an indictable offence is made before any Justice or Justices aforesaid, 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 a charge is made if a warrant is to be issued information, &c., upon oath, &c.
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 aforesaid 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. If summons to be issued instead, information, &c., not to be on oath.
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. No objection allowed for alleged defect in form or substance.
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. In certain cases justice may grant a warrant to search dwelling house, &c.
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 Upon complaint being laid justices receiving the same may issue summons or warrant for appearance of party charged.
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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.

How summons to be served. **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.

Constables &c., to attend and depose. **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.

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

No objection allowed for alleged defect in form or substance. **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.

If variance appears to justices they may adjourn the case to a future day. **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 manner hereinafter mentioned. 14, 15 V. c. 96, s. 5,—16 V. c. 179, s. 5.

Warrant to apprehend parties 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

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.

18 **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.

Not necessary to make warrant at any particular time.

20 **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.

How and where warrant may be executed.

30 **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.

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

40 **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.

No objection allowed for alleged defect in form or substance.

45 **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,

If variance appears to the justices they may adjourn

the case to a future day. 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.

Regulations as to the backing of warrants. **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.

Duty of constable in case of arrest. **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 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

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.

10 **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.

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

25 **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.

In certain cases warrant may issue in first instance.

35 **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.

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

As to the
examination
of witnesses.

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.

Justice to ad-
minister oath
or affirmation.

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 Council 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.

After exami-
nation of the
accused, jus-
tice to read
depositions
taken against
him and cau-
tion him as to
any statement
he may make.

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 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.

33.

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.

Examinations may be given in evidence in certain cases.

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.

Explanations to be made to the accused party.

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.

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

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.

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

37. Any Justice or Justices before whom any witness is examined as aforesaid, may bind by Recognizance (O 1) 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.

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

Room

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

Recognizances to be subscribed to by justices.

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.*

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.

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.

Discharge.

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 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.

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 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. 96, s. 13,—16 V. c. 179, s. 13.

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.

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

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.

But accused may be brought up at an earlier day.

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.

Party accused may be admitted to bail on the examination.

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 party does not appear upon recognizance, justice may transmit the same to the Clerk of the Peace.

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

If a person be apprehended in one district on charge of offence committed in another, he may be examined in the former.

to

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 herein before mentioned. 14, 15 V. c. 96, s. 14,—16 V. c. 179, s. 14. 5

And if evidence be deemed sufficient, may be committed to prison.

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 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. 10 15 20 25 30

As to payment of expenses of conveying the accused into the proper district. 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 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. 35 40

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 handwriting of the Justice or Justices who has subscribed the same, such Justice or Justices before whom the said accused party 45

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.

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.

Constable on producing such certificate to be paid.

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, ss. 15, 17.

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

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.

In case of misdemeanor one justice may bail.

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

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

* NOTE.—The words from “and” in the second line to “trial” in the 6th line are not contained in the 14, 15 V. c. 96,—See Post s. 57.

c/

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. 5

*Translator
to examine*

Certain offences not bailable except by Judge's order.

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, by order of Her Majesty's Court of Queen's Bench or a Superior Court in Lower Canada or of Her Majesty's Court of Queen's Bench or 10 Common Pleas in Upper Canada, or of one of the Judges thereof in vacation, and nothing herein contained, shall prevent such last mentioned 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. 15 c. 44, s. 30.

Justice bailing after commitment to issue a warrant of deliverance.

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 20 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 25 the same. 16 V. c. 179, s. 16,--14, 15 V. c. 96, s. 16.

If the evidence be deemed insufficient, &c.

9

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 35 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 40 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,) 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 45 the Sea, to the Common Gaol of the Territorial Division within which

* NOTE.—Murder not contained in 14 15 V. c. 96, end of s. 15.

† NOTE.—The words from "although," in the 9th line, to "Felony," in the 14th line, are not in the 14, 15 V. c. 96, s. 16.

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.

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.

Provisions touching the conveyance of prisoners to gaol.

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.*

As to payment of costs for the same.

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 ~~Three~~ *five* pence for each folio of one hundred words. 16 V. c. 179, s. 19, 14, 15 V. c. 96, s. 19.

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

Translation of depositions five cents

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

Powers of inspectors of police, &c.

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.

Duty of coron-
er.

X

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.

When party
committed
wishes to be
bailed, the
Justices on
notice thereof
to forward all
information to
Clerk of the
Crown.

or in Lower Canada
to a Judge of the Superior
Court or in Upper
Canada

Prothonotary

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 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 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.

Same order to
be made as in
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,

* NOTE.—Qu : as to Judges of the Superior Court in L. C.

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.

65. If any Justice or Coroner neglects or offends in any thing ^{Penalty on justices and coroners.} 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, ¹⁰ 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.

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 ^{Provisions to apply to all justices and coroners.} 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.

Translation wanted

SCHEDULES.

(A) 14, 15 V. c. 96,--16 V. c. 179.

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 the said District (or County, as the case may be) of _____ who saith that (*&c.*, stating the offence).

Done

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

J. S.

(B)

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

Blank

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, day
of at , in the District (County, &c.)
aforesaid.

J. S. [L. S.]

(C)

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 under-
signed (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 com-
mand you, in Her Majesty's name, to be and appear before (me)
on , at o'clock in the (fore) noon,
at

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, and _____ day of _____ in the year of Our Lord _____, at _____, in the District (or *County, &c.*) aforesaid
J. S. [L. s.]

(D)

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 (*if 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.

or /

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.)

(E 1.)

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 concealed in the (*Dwelling House, &c., of C. D.*) of _____ in the said District (or *County*) (*here add the causes of suspicion, whatever 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.)

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 _____

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.)

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.)

(G.)

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)

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

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.]

(I)

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**

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)

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.)

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

District (or *County, United Counties, 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**.

n/

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.)

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 neglect; These are therefore to command you to bring and have **the**

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 concern-
 ing the said charges so made against the said A. B. as afore-
 said.

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.)

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 evi-
 dence unless compelled to do so; These are therefore to com-
 mand 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.)

(*Stat*) /

(L 4.)

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.)

(M.)

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 his 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.)

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 _____, that the said A. B., on _____, at _____, for _____, (*&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 _____

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.)

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

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.)

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 _____
 eight hundred and _____

day of _____

one thousand

J. S.

(P 1.)

(P 1.)

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.)

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 _____, District (or *County, &c.*) of _____ aforesaid.

J. S. [L. s.]

(Q 1.)

(Q 1.)

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.)

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 _____, A. B. of _____, in the year of Our Lord _____, (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.)

(Q 3.)

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.)

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.)

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 _____

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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 witness 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.)

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,

to stet

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.)

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

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.)

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.)

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

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.)

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.

6/

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.)

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER, AND JUSTICE'S ORDER THEREON FOR THE PAYMENT OF THE CONSTABLE'S EXPENCES 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,

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.

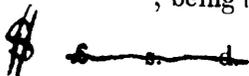
Keeper of the Common Gaol of the said District (or *County, &c.*) at _____
 To R. W. Esquire, Treasurer of the District (or *County, United Counties or as the case may be,*) of _____ :

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.



W. T.

C A P.

C A P. C I I I.

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 :

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. 14, 15 V. c. 95, s. 1, 16 V. c. 178, s. 1.
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.
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.
4. But nothing hereinbefore contained shall oblige any Justice or Justices of the Peace to issue any such 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.
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

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

How summons to be served.

Constables to attend to depose, &c.

Justices not obliged in certain cases to issue summons.

No objection allowed for want of form.

9

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.

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

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.

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

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.

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.

Warrant to be under hand and seal of Justice.

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.

It need not be returnable at any particular time.

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 the 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.

By whom warrant may be executed.

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

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

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.

No objection allowed for want of form in the warrant.

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.

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

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.

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

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

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 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.

complaint or proceedings thereon.

15 **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.

Abettors, &c., how punishable.

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.

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

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

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

Justices of the Peace for the same Teritorial 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.

When Justice may issue his warrant in the first instance.

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.

Witnesses refusing to be examined may be committed.

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 Teritorial 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.

Certain complaints must be in writing.

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, 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.

As to any variance between information, and the facts or evidence.

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.

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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 **5** 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 **10** 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 **15** adjourned. 14, 15 V. c. 95, s. 8,—16 V. c. 178, s. 8.

If deemed material, Justice may adjourn the case.

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 **20** 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 **25** 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.

In case the defendant is bailed and fails to appear afterwards.

What to be done.

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24. All cases of complaint upon which a Justice or Justices of the Peace are authorized by law to make an Order, and all **30** 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.

10,

25. In all cases of informations, where the Justice or Justices receiving the same thereupon issues 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 **40** 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 **45** 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.**

And always where warrant is issued in the first instance, complaint or information to be for one matter only.

24

* Note.—As to Lower Canada, See 22 V. c. 28, s. 8.

- for information or complaint. **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 six months from the time when the matter of such complaint or information arose. 14, 15 V. c. 95, s. 10,—16 V. c. 178, s. 10,—*See* c. 99, s. 123, *ante*.
- As to the hearing of complaints and informations. **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.
- If there be no such direction. **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.
- To be deemed an open Court. **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.
- Defendant may make full defence, and produce witnesses. **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.
- Party may plead by Counsel. **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.
- In case the defendant does not appear, &c. **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 complaint

complaint or information until the said Defendant be apprehended. 14, 15 V. c. 95, s. 12,—16 V. c. 178, s. 12.

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.

When defendant has been apprehended, &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 appears, &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.

If defendant afterwards fails to appear &c.

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

If both parties appear, Justice to hear

* As to Lower Canada, See 22 V. c. 28, s. 3.

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and determine the case. 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.

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Proceedings on the hearing of complaints and informations. **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. 5

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Justice may convict party if he admit the truth, &c. **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. 10 15

If he do not 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. 20 25

Complainant or defendant not to make observations in reply upon the evidence, &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. 30

After hearing evidence, Justice to determine the matter. **41.** The Justice or Justices, having heard what each party has to say as aforesaid, and the Witnesses and evidence 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. 35

If defendant is convicted, a minute to be made gratis. **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 (1 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 to be lodged with the Clerk of the Peace to be by him filed among 40 45

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.

43. If the said Justice or Justices dismiss the information or complaint, such Justice or Justices may, when required so
5 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
10 party. 14, 15 V. c. 95, s. 13,—16 V. c. 178, s. 13.

Or if he dismiss the complaint, &c.

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
15 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.

If information or complaint negative any exemption.

45. Every Prosecutor of any such information not having any pecuniary interest in the result, and every Complainant
20 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
25 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.

Prosecutors and complainants in certain cases to be deemed competent witnesses and examined upon oath, &c.

46. Before or during the hearing of any such information or
30 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
35 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
40 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,
45 s. 15,—16 V. c. 178, s. 15.

Justice may adjourn hearing of any case and commit defendant or suffer him to go at large, &c.

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
Proceedings if defendant or

Plaintiff appears. 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. 5

If they do not appear. 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. 10

If defendant fails to re-appear, &c. 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. 15

Form of convictions and orders to be as in Schedule where no particular form is given in the Statute creating the offence. 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 (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. 20

Where no special form is given, form in K. 1. may be adopted. 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. 30

Defendant to be served with copy of order before distress or commitment. 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 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 45

* As to Lower Canada, See 22 V. c. 28, s. 3.

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.

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.

Power to Justices to award costs not inconsistent with the fees established by law to be taken.

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 may be awarded to defendant when the case is dismissed.

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.

Costs so allowed shall be specified in conviction or order of dismissal.

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.

And may be recovered by distress.

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.

Powers to Justices to issue warrant of distress in cases where a pecuniary penalty, &c., has been adjudged.

Proceedings if sufficient distress be not found.

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.

When the issuing a warrant would be ruinous to defendant or when there are no goods, Justice may commit him to prison

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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 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 distress issued, defendant may be bailed until it is returned.

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.

If defendant does not afterwards appear, the recognizance to be certified by a

61. In all cases where a Defendant gives security by Recognizance as aforesaid, and does not afterwards appear at the 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

* NOTE.—Q: O, 1-2.

Recognizance the non-appearance of the Defendant, may, in Clerk of the
 Upper Canada, § transmit such Recognizance to the Clerk of the Peace.
 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.

62. If at the time and place appointed for the Return of
 any such Warrant of Distress, the Constable, who has had In default of
 execution of the same, returns (N 4) that he could find sufficient dis-
 no goods or chattels or no sufficient goods or chattels whereon tress Justice
 he could levy the sum or sums therein mentioned, together may commit
 with the costs of, or occasioned by the levy of the same, defendant to
 the Justice of the Peace before whom the same is returned, prison.
 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 Di-
 vision for which such Justice is then acting, and there to de-
 liver 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. 14, 15 V. c. 95, s. 20,—16 V. c. 178, s. 20.

63. Where a Justice or Justices of the Peace, upon such infor- Imprisonment
 mation or complaint as aforesaid, adjudges the Defendant to be for a subse-
 imprisoned, and such Defendant is then in prison undergoing quent offence
 imprisonment upon conviction for any other offence, the to commence
 Warrant of Conviction for such subsequent offence shall at expiration
 of that for
 be forthwith delivered to the Gaoler or other Officer to whom previous
 the same is directed, and the Justice or Justices who issued offence.
 the same, if he or they think fit, may award and order therein,
 that the imprisonment for such subsequent offence shall com-
 mence 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 If information
 with costs as aforesaid, the sum awarded for costs in the be dismissed ;
 Order costs may be

recovered by
distress upon
prosecutor.

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.

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And the conviction shall be enforced.

65. In case an appeal against any such Conviction or Order as aforesaid be decided in favor of the Respondent, 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. 14, 15 V. c. 95, s. 23,—16 V. c. 178, s. 23.

If costs of appeal be ordered to be paid.

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 they be not paid within a certain time and be not secured by recognizance.

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 ~~One Shilling~~, 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. 14, 15 V. c. 95, s. 23,—16 V. c. 178, 23.

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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

or tender, such Constable shall cease to execute the same. 14, 15 V. c. 95, s. 24,—16 V. c. 178, s. 24.

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.

Or the party, if imprisoned for non-payment, may be discharged.

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. 14, 15 V. c. 95, s. 25,—16 V. c. 178, s. 25,—See 4 G. 4, c. 19, s. 7, L. C.

In cases of summary proceeding, one Justice may issue summonses, warrants, &c.

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.

One Justice may issue a distress warrant.

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.

Although not a convicting Justice.

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.

Two Justices must join in the decision, &c.

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

Regulation as to the payment of Clerk's fees.

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, s. 26 and 18.

Penalty for Clerks receiving greater fees than entitled to.

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 ~~Twenty Pounds~~, 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.

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What fees Clerks may demand.

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.

Regulations as to whom penalties, &c., are to be paid.

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.

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May pay penalty to gaoler.

78. If any person committed to prison in Lower Canada, upon any Conviction or Order as aforesaid for non-payment of 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

Gaoler to pay the same to Clerk.

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. 95, s. 27.

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.

As to whom Clerk is to pay the same.

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.

In certain cases Clerk to pay the same to Treasurer, &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.

Said Clerks and gaolers to keep an exact account of all such moneys received by them, &c.

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.

Inspector, &c., may act alone.

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,—16 V. c. 178, s. 29.

To have power in preserving order.

84.

And for enforcing execution of process.

84. The said Inspectors and Superintendents of Police, Police Magistrates or 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.

Clerks of the Peace in L. C. to act as Clerks of Justices.

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.

Meaning of "Territorial Division."

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 "Prison."

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.

Forms in Schedule to be valid, &c.

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.

Mutted in French

Mutted in French

SCHEDULES.

(A) 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,

* "Qu. And."

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, 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 (or County, or as the case may be, aforesaid.

J. S. [L. s.]

(B)

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)

11
 ———
 11

(C)

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 :

Y/

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)

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN AD JOURNMENT 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 Goal 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*

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)

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 Successors, 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 Recognizance 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)

**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.)

(G 1.)

SUMMONS TO A WITNESS.

Province of Canada, }
District (or *County, United Coun-* }
ties, 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.)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

Province of Canada, }
District (or *County, United Coun-* }
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 _____

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 testify what he shall know concerning the
 said information (or complaint).

9

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.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Province of Canada,
 District (or *County, United Coun-* }
ties, 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

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.)

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 }

C

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.

h/

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.)

(H.)

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 _____ :

e/
 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.)

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*

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.)*

(I 2.)

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*

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.

J. S. [L. s.]

(I 3.)

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &c.

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

9

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. (*&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 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

*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.]

Omitted in here

(K. 1.)

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 Complaint 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

to form part of
note at end
last page

*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 this 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

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 *of the case may be*) aforesaid.

J. S. [L. s.]

(K 3.)

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS PUNISHABLE WITH 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 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 his 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

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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 this 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)

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 _____ (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)

(M)

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.)

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

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.)

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Province of Canada,
 District (or *County, United Counties,* }
ties, 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 add 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 the sooner paid; And * whereas the

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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.)

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

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,) 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 Constable 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) _____ of _____

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

Emitted in 7

O. K.

(N 4.)

(N 4.)

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.)

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 _____ 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 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*)

e/ 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, 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 _____ (£s., 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

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

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 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.]

(Q 1.)

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.

J. S. [L. s.]

(Q 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Province of Canada, }
District (or *County, United Counties,* }
ties, 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

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 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.]

(R.)

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 _____

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.)

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

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.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Province of Canada,
District (or *County, United Coun-* }
ties, 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 said

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)

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

* NOTE. Not in 14, 15 V. c. 95, but in 16 V. c. 178.

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 _____, 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 ~~that~~ 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 (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 _____

7 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."
 If the Informant or Complainant do not appear, these words may be omitted.

7

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.)*

h/

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,

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 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.

Wrotted in French

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 _____ pounds, 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 and 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.

dollars!

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

SURETIES.

SURETIES.

COMPLAINT BY THE PARTY THREATENED FOR SURETIES
FOR THE PEACE.

*Proceed as in the Form (T.) to the asterisk *, then :*
 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, that is to say, (*set them out, with the cir-*
cumstances 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 men-
 tioned, 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 mean-
 time 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

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

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

J. Stat

To the Constable of the _____ in the District ~~(or County of~~
(one of the United Counties of _____, or as the case may be) 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 _____)* :

J. Stat

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 neglect-
 ed, and still refuses and neglects to find such Sureties) ; These
 are therefore to command you the said Constable of the Town-
 ship 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 mean-
 time 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.]

C A P.

C A P . C I V .

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 apprehension of riot, felony, &c.

Who may be appointed.

Such Justices may administer an oath of office to the person so appointed.

Form of the oath.

Notice of such appointment to be sent to

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.

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 :

“ 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.”

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

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.

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 regula-
tions touch-
ing such special
Constables.

And may re-
move any of
them.

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.

Powers of such
Special Con-
stables and
local extent of
such powers.

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.

Such Con-
stables may
act in an ad-
joining dis-
trict in cer-
tain cases.

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.

Their powers
in such ad-
joining dis-
tricts.

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

Penalty on
persons ap-
pointed and
refusing to
take the oath.

\$ 20,

requiring him, and shall forfeit and pay such sum of money not exceeding ~~five pounds~~ 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 ~~five pounds~~, 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.

\$ 20

Sufficient excuse may be allowed.

Penalty for refusing to act or to obey orders.

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 ~~five pounds~~, 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.

\$ 20.

Sufficient excuse may be allowed.

Justice may suspend or determine the services of Special Constables.

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.

st/

Notice to be sent to the Provincial Secretary.

Special Constables, to deliver up their staves, &c., when discharged.

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,

st/

Penalty for refusing or neglect.

Peace, forfeit and pay for such offence such sum of money not exceeding ~~two pounds~~, as to the convicting Justices seems meet. 10, 11 V. c. 12, s. 8.

\$ 8.

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 ~~ten pounds~~, 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.

\$ 40.

14. The Justices of the Peace acting for the limits within which such special Constables have been called out to serve, may at a Special Session to be held for that purpose, or the major part 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 ~~five shillings~~ 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.

Special Constables may be allowed a certain sum per diem for their services.

\$ 1.

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.

To be paid by the Treasurer of the Municipality.

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.

Special Sessions may be adjourned and shall be held legal until the contrary be proved.

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.

Limitation of prosecutions under this Act.

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.

Application of penalties.

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 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.

Provisions for the protection of persons acting under this Act.

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.

No costs unless on certificate of Judge.

26. Any of the Military or Naval Pensioners enrolled under the Acts of the Parliament of the United Kingdom in force in that behalf, as a local force for the preservation of the Peace in any part of this Province, and who volunteer to serve also as members of a Local Police Force, or any other person volunteering to serve as aforesaid, and found duly qualified for such service, may be enrolled to be so employed when required, under such regulations, superintendence and control as the Governor in Council may think proper; but the number of men so enrolled at any one time shall not exceed five hundred. 14, 15 V. c. 77, s. 1. *

Local Police Force may be enrolled.

27. The Pensioners and others so enrolled shall be respectively Constables and Peace Officers for any locality in which they may for the time being be employed, and shall have all the powers and authority, and perform all the duties of such office, except in so far as it may be herein otherwise provided, and they may be sworn as such by any Magistrate for the place where they are respectively enrolled. 14, 15 V. c. 77, s. 2.

Members so enrolled to be Constables, &c.

28.

* NOTE.—This and the following Sections are temporary. See 22 V. c. 81.

Allowance to members of Local Police Force when on duty.

28. The said Pensioners or other persons, when actually employed as Constables and members of such Police Force as aforesaid, shall be entitled to receive, out of Provincial or Local Funds, the same pay and advantages as are allowed to the said Pensioners by Her Majesty's regulations in that behalf, when called out as Military Pensioners to act in aid of the Civil Power; but no such person enrolled under this Act shall be liable to be called upon to act as a Constable or member of such Police Force for less than four days at any one time, except by his own consent; and no such Military or Naval Pensioners as aforesaid shall be liable to serve as a member of the said Police Force at any time when his services are required in any other capacity by the Imperial or Military Authorities. 14, 15 V. c. 77, s. 3.

Members of Local Police Force exempted from certain offices.

29. The Pensioners and other persons enrolled as members of such Police Force as aforesaid, shall, while so enrolled, be exempt from serving as Constables (except when acting as members of the said Police Force,) or as jurors, or in any Municipal Office, or in the Militia, and also from Statute Labour or any capitation tax in lieu thereof, and from arrest for debt for any sum under thirty pounds; and any such Pensioners, while so enrolled, shall be exempt from taxes on any property of which the occupation may be allowed them by the Imperial or Military authorities, and for which the title remains in the Crown; but they shall have no right to vote at any election, whether Municipal or for a member of either house of the Provincial Parliament upon any such property. 14, 15 V. c. 77, s. 4.

Superintendent may be a J. P.

30. The Governor, if he deems it expedient, may appoint the Superintendent or Chief of the Police Force in any locality to be a Justice of the Peace for such portion of this Province as the Governor may think fit, and any such Superintendent, or Chief of the Police Force may act as such Justice of the Peace, although he may not have the qualification in property required in Justices of the Peace generally. 14, 15 V. c. 77, s. 5.

Free grants of public lands to members of Local Police Force.

31. A free grant of fifty acres of the public lands shall, on condition of actual settlement thereon in the manner and within the time usual in cases of free grants, be made to each such Pensioner or other person who may have been enrolled in such Police Force during five years, and shall after such service receive a certificate of good conduct, and of his having faithfully performed his duty as a member of such Police Force whenever called upon to act as such, from his Commanding Officer or the Superintendent or Chief of such Police Force under whom he has served, and countersigned by the Provincial Secretary; such grant to avail to the children or legal representatives of any such Pensioner or person who may die before receiving the Letters Patent therefor, on condition

condition of their performing or completing the duties of actual settlement to which such Pensioner or person was bound: And any thing in the Act respecting *the disposal of Public Lands*, to the contrary notwithstanding. 14, 15 V. c. 77, s. 6.

- 5 **32.** The officer in command of the enrolled Pensioners in Canada, shall be *ex officio* a Justice of the Peace for every part of this Province, and the Staff Officers of Pensioners shall be respectively Justices of the Peace for the locality in which they may be appointed to command the said Pensioners, and
 10 in any adjoining locality; and each of the said Officers, and such of the said Pensioners as volunteer as aforesaid, shall be held to be Officers and Soldiers of Her Majesty's Army on actual service, and entitled to all the privileges and exemptions to which such Officers and Soldiers, when on actual
 15 service or on full pay, are by law entitled: but no such Officer as aforesaid shall have any power to act as a Justice of the Peace when called out or acting with any such Pensioners in aid of the Civil Power. 14, 15 V. c. 77, s. 7.

Officers in command of pensioners to be J. Ps.

- 33.** And whereas under the Imperial Acts aforesaid, the
 20 Governor is empowered to issue his Warrant to the Mayor or other Chief Magistrate of any Town or district wherein such Pensioners as aforesaid may be enrolled, authorizing him in certain cases where the public peace may be endangered to call out the whole or such part of the enrolled Pensioners aforesaid,
 25 as he may consider necessary, in aid of the Civil Power: therefore the Mayor of every City or Incorporated Town in Upper Canada or Lower Canada, the Warden of every county or union of counties in Upper Canada, and such Justice of the Peace as the Governor may from time to time designate in every County
 30 in Lower Canada, shall be held to be the Chief Magistrate of such City, Town, County or Union of Counties for the purposes of the said Imperial Acts. 14, 15 V. c. 77, s. 8.

Who shall be deemed the "Chief Magistrate" in certain cases.

- The foregoing sections of this Act, from the 26th to the 33rd
 inclusive, shall remain in force for one year from the 16th
 35 August, 1858. 14, 15 V. c. 77, s. 9,—22 V. c. 81, s. 6.

Duration of certain Sections.

C A P . C V .

An Act respecting the prompt and summary administration of Criminal Justice in certain cases.

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

Power to Recorders to try persons guilty of larceny to an amount not exceeding five shillings, &c.

\$ 1.00.

1. Where any person is charged before the Recorder of any City with having committed— 5

1. Simple larceny, and the value of the whole of the property alleged to have been stolen does not in the judgment of such Recorder exceed ~~five shillings~~; or

2. With having attempted to commit larceny from the person; or 10

3. With simple larceny; or

4. With having committed an aggravated assault, by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously cutting, stabbing or wounding any other person; or 15

5. With having committed an assault upon any female whatever, or upon any male child whose age does not in the opinion of such Recorder exceed fourteen years, such assault being of a nature which cannot in the opinion of the Recorder be sufficiently punished by a summary conviction before him under any other Act, and such assault if upon a female not amounting in his opinion to an assault with intent to commit a rape; or 20

6. With having assaulted any magistrate, bailiff, or constable or other officer in the lawful performance of his duty, or with intent to prevent the performance thereof; or 25

7. With keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy house;

Such Recorder may hear and determine the charge in a summary way. 20 V. c. 27, s. 1,—22 V. c. 27, s. 1. 30

Accused to be asked whether he consents to the charge being tried summarily.

2. Whenever the Recorder before whom any person is charged as aforesaid proposes to dispose of the case summarily under the provisions of this Act, such Recorder, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the party charged for any statement which he may 35

may wish to make, shall state to such person the substance of the charge against him, and if it is in the election of the person charged, shall then say to him these words, or words to the like effect: "Do you consent that the charge against you shall
5 be tried by me, or do you desire that it shall be sent for trial by a jury at the (*naming the Court at which it could soonest be tried*);" and if the person charged consents to the charge being summarily tried and determined as aforesaid, or if it is
10 a case not within the election of the person charged, the Recorder shall reduce the charge into writing, and read the same to such person, and shall then ask him whether he is guilty or not of such charge;

3. If the person charged confesses the charge, the Recorder shall then proceed to pass such sentence upon him
15 as may by law be passed, subject to the provisions of this Act, in respect to such offence: but if the person charged says that he is not guilty, the Recorder shall then examine the witnesses for the prosecution, and when the examination has
20 been completed, the Recorder shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence, the Recorder shall hear such defence, and shall then proceed to dispose of the case summarily. 22 V. c. 27, s. 3.

4. In the case of larceny charged under the first, second or
25 third sub-sections of the first section of this Act, if the Recorder, after hearing the whole case for the prosecution and for the defence, finds the charge proved, then such Recorder shall convict the person charged and commit him to the Common
30 Gaol or House of Correction, there to be imprisoned, with or without hard labour, for any period not exceeding three months. 20 V. c. 27, s. 1.

5. Every such conviction and certificate respectively may be in the forms A and B, in this Act, or to the like effect. 20 V. c. 27, s. 1.

6. If in any case the Recorder finds the offence not proved,
35 he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal. 20 V. c. 27, s. 1.

7. When being in the election of the person charged he does
40 not consent to have the case heard and determined by the Recorder, or in any case if it appears to the Recorder that the offence is one which, owing to a previous conviction of the person charged, is by law a felony, or if such Recorder be of opinion that the charge is, from any other circumstances, fit
45 to be made the subject of prosecution by indictment rather than to be disposed of summarily, such Recorder shall deal with the case in all respects as if this Act had not been passed. 20 V. c. 27, s. 1,—22 V. c. 27, s. 3.

When the Recorder may dismiss the case without convicting.

8. If upon the hearing of the charge such Recorder is of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, he may dismiss the person charged without proceeding to a conviction. 20 V. c. 27, s. 1,—22 V. c. 27, s. 2, No. 5.

5

\$ 1.00

How Recorder to proceed when a charge of larceny is deemed fit to be dealt with summarily.

9. Where any person is charged before any Recorder with simple larceny of property exceeding in value ~~five shillings~~, or with stealing from the person, or with larceny as a clerk or servant, and the evidence in support of the prosecution is in the opinion of the Recorder sufficient to put the person charged on his trial for the offence charged, such Recorder, if the case appear to him to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers of this Act, shall reduce the charge into writing, and shall read it to the said person, and shall then explain to him that he is not obliged to plead or answer before such Recorder at all, and that if he do not plead or answer before him, he will be committed for trial in the usual course. 20 V. c. 27, s. 3.

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If the accused admits his guilt he may be convicted and sentenced forthwith.

10. The Recorder shall then ask him whether he is guilty or not of the charge, and if such person says that he is guilty, such Recorder shall thereupon cause a plea of guilty to be entered upon the proceedings, and shall convict him of the offence, and commit him to the Common Gaol or House of Correction, there to be imprisoned, with or without hard labour, for any term not exceeding six months, and every such conviction may be in the form C, or to the like effect. 20 V. c. 27, s. 3.

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Accused person allowed full defence, &c.

11. In every case of summary proceedings under this Act, the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined, by counsel or attorney. 20 V. c. 27, s. 4.

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Recorder may compel attendance of witnesses.

12. The Recorder before whom any person is charged under this Act, may by summons require the attendance of any person as a witness upon the hearing of the case at a time and place to be named in such summons; and such Recorder may bind by recognizance all persons whom he may consider 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; And 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 made of such persons having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the Recorder before whom such person ought to have attended may issue a warrant to compel his appearance as a witness. 22 V. c. 27, s. 4.

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13. Every summons issued under this Act may be served by delivering a copy of the summons to the party summoned, or by delivering a copy of the summons to some inmate of such party's usual place of abode ; and every person so required **5** by any writing under the hand of any Recorder to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. 22 V. c. 27, s. 5.

Summonses how served.

14. The jurisdiction of the Recorder in the case of any person charged, within the Police limits of any City in this Province, **10** with therein keeping or being an inmate or an habitual frequenter of any disorderly house, house of ill-fame or bawdy house, shall be absolute, and shall not depend on the consent of the party charged to be tried by such Recorder, nor shall such party be asked whether he consents to be so tried. 22 V. c. **15** 27, s. 2, No. 1.

When the consent of the party charged to be tried by the Recorder not requisite.

15. The jurisdiction of the Recorder shall also be absolute in the case of any person, being a seafaring person and only transiently in this Province, and having no permanent domicile therein, charged, either within the City of Quebec as **20** limited for the purposes of the Police Ordinance or within the City of Montreal as so limited, with the commission therein of any other of the offences mentioned in the last preceding section, and such jurisdiction shall not depend on the consent of any such party to be tried by the Recorder, nor shall such **25** party be asked whether he consents to be so tried. 22 V. c. 27, s. 2, No. 2,—See 2 V. c. 2, L. C

When consent to be so tried not necessary in the case of seafaring men.

16. In any case summarily tried under the fourth, fifth, sixth or seventh sub-sections of the first section of this Act, if the Recorder finds the charge proved, he may convict the person **30** charged and commit him to the Common Gaol or House of Correction, there to be imprisoned with or without hard labour for any period not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, one hundred dollars, or to both fine and imprisonment, not exceeding the **35** said period and sum ; and such fine may be levied by warrant of distress under the hand and seal of such Recorder, or the party convicted may be condemned (in addition to any other imprisonment on the same conviction) to be committed to the Common Gaol, for a further period not exceeding six months **40** unless such fine be sooner paid. 22 V. c. 27, s. 2, No. 3.

Punishment in cases summarily tried under the 4th to the 7th sub-section of section one.

Levying fine, Imprisonment if not paid.

17. In such cases as last aforesaid, the forms given at the end of this Act, shall be altered by omitting the words stating the consent of the party to be tried before the Recorder, and by adding the requisite words stating the fine imposed **45** (if any) and the imprisonment (if any) to which the party convicted is to be subject if the fine be not sooner paid 22 V. c. 27, s. 2, No. 4.

Forms may be altered to suit this Act.

When J. P. may remand accused party to be dealt with by a Recorder, &c.

18. Where any person is charged before any Justice or Justices of the Peace, with any offence mentioned in this Act, and in the opinion of such Justice or Justices, the case may be proper to be disposed of by a Recorder, or by an Inspector and Superintendent of the Police, or by a Police Magistrate, as herein provided, the Justice or Justices before whom such person is so charged may, if he or they see fit, remand such person for further examination before the Recorder or before the Inspector and Superintendent of the Police of the nearest City, or before the nearest Police Magistrate, in like manner in all respects as a Justice or Justices are authorized to remand a party accused under the general Act respecting the duties of Justices of the Peace out of Sessions in like cases. 20 V. c. 27, s. 5.

But within U. C. or L. C. as the case may be.

19. No Justice or Justices of the Peace in Upper Canada, shall so remand any person for further examination before any Recorder, Inspector and Superintendent of Police, or Police Magistrate in Lower Canada, nor shall any Justice or Justices of the Peace in Lower Canada so remand any person for further examination before any Recorder or Police Magistrate in Upper Canada. 20 V. c. 27, s. 5.

Such party may be dealt with by the Recorder or Police Magistrate.

20. Any person so remanded for further examination before the Recorder of any City, may be examined and dealt with by the Inspector and Superintendent of the Police or Police Magistrate of the same City, and any person so remanded for further examination before the Inspector and Superintendent of the Police or the Police Magistrate of any City, may be examined and dealt with by the Recorder of the same City. 20 V. c. 27, s. 5.

Proceedings if party remanded fail to appear pursuant to recognizance.

21. If any person suffered to go at large upon entering into such recognizance as the Justice or Justices are authorized under the last mentioned Act to take, on the remand of a party accused conditioned for his appearance before a Recorder under the preceding sections of this Act, does not afterwards appear pursuant to such recognizance, then the Recorder before whom he ought to have appeared shall certify (under his hand) on the back of the recognizance, to the Clerk of the Peace of the District in Lower Canada, or County or Union of Counties in Upper Canada, the fact of such non-appearance, and such recognizance shall be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance. 20 V. c. 27, s. 6.

Convictions and other proceeding under this Act to be returned to Q. S.

22. The Recorder adjudicating under this Act shall transmit the conviction, or a duplicate of a certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the next Court of Quarter Sessions for the District in Lower

Lower Canada, or the County or Union of Counties in Upper Canada, there to be kept by the proper Officer among the Records of the Court. 20 V. c. 27, s. 7.

23. A copy of such conviction, or of such certificate of dismissal, certified by the proper Officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein, in any legal proceeding whatever. 20 V. c. 27, s. 7.

Copy of such conviction to be evidence.

24. The Recorder, by whom any person has been convicted under this Act may order restitution of the property stolen, taken or obtained by false pretences, in those cases in which the Court, before whom the person convicted would have been tried but for this Act, might by law order restitution. 20 V. c. 27, s. 8.

Restitution of the property stolen may be ordered.

25. Every Recorder's Court, for the purposes of this Act, shall be an open public Court, and a written or printed notice of the day and hour for holding such Court, shall be posted or affixed by the Clerk of the said Court upon the outside of some conspicuous part of the building or place where the same is held. 20 V. c. 27, s. 9.

Recorder's Court to be an open Public Court.

26. The provisions of the Act respecting the duties of Justices of the Peace out of session in relation to summary convictions and orders, and the provisions of the Act respecting the duties of Justices of the Peace in relation to persons charged with indictable offences, shall not be construed as applying to any proceeding under this Act. 20 V. c. 27, s. 10.

The Act respecting duties of J. Ps. to apply to proceedings under this Act.

out of session

27. Every conviction by a Recorder under this Act shall have the same effect as a conviction upon indictment for the same offence would have had, save that no conviction under this Act shall be attended with forfeiture. 20 V. c. 27, s. 11.

Effect of conviction under this Act.

28. Every person who obtains a certificate of dismissal or is convicted under this Act, shall be released from all further or other criminal proceedings for the same cause. 20 V. c. 27, s. 12.

Proceedings under this Act when a bar to further proceedings.

29. No conviction, sentence or proceeding under this Act shall be quashed for want of form; and no warrant of commitment upon a conviction shall be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted, and there be a good and valid conviction to sustain the same. 20 V. c. 27, s. 13.

Convictions, &c., not to be quashed for want of form.

30. The Inspector and Superintendent of Police for the City of Quebec, the Inspector and Superintendent of Police for the City of Montreal, and the Police Magistrate for any City in Upper Canada, sitting in open Court, may respectively in the case of persons charged before them, do all acts by this Act authorized

Jurisdiction of Recorders extended to Inspectors of Police and Police Magistrates.

authorized to be done by Recorders, and all the provisions of this Act referring to Recorders and Recorders' Courts and the Clerks of the Recorders' Courts, shall be read and construed also as referring to such Inspectors and Superintendents of the Police and Police Magistrates and the Courts and the Clerks of the Courts held by them respectively, and as giving them full power to do all acts authorized to be done by Recorders in the case of persons charged before them respectively. 20 V. c. 27, s. 14.

Omitted in French

Powers of Recorder vested in two J. P's.—or in Sheriffs, &c., in L. C.

31. All the jurisdiction and powers vested in the Recorder of any City are hereby conferred upon and vested in any two or more Justices of the Peace for any district in Lower Canada when present at the *chef-lieu* thereof, and there sitting in open Court, and upon and in the Sheriff of any district in Lower Canada, (other than the districts of Quebec and Montreal,) and upon and in any Deputy Sheriff in the District of Gaspé, sitting in open Court; But the jurisdiction and powers aforesaid shall not be exercised by any two or more Justices of the Peace or Sheriff in any new district until such district has been established as such for all purposes of the administration of justice in criminal as well as civil matters, under a proclamation of the Governor to that effect. 22 V. c. 27, ss. 6, 10.

Sheriffs exercising jurisdiction as aforesaid to be attended by certain officers.

32. The Sheriffs of such districts as aforesaid in Lower Canada, or 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 Clerk 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 attended, assisted and obeyed by them respectively, under the same or similar circumstances; and the Clerk of the Peace for 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 and of the Act hereby amended. 22 V. c. 27, s. 7.

Recorders of Quebec and Montreal declared to be J. Ps.

33. The Recorders of the Cities of Quebec and Montreal respectively, have been and are, by virtue of their offices, Justices of the Peace for the Judicial Districts in which the said Cities are respectively situate, and vested with all the powers and authorities, within the limits of their respective jurisdictions, of any one or two Justices of the Peace, as the case may require. 22 V. c. 27, s. 9.

respecting

This Act not to extend to Act respecting juvenile offenders.

34. Nothing in this Act shall affect the provisions of the Act, ~~For the Trial and Punishment of Juvenile offenders~~; and this Act shall not extend to persons punishable under that Act, so far as regards offences for which such persons may be punished thereunder. 20 V. c. 27, s. 15.

35. Every fine imposed under the authority of this Act shall be paid to the Recorder, Superintendent of Police, Sheriff, Deputy Sheriff or Justices of the Peace, who has imposed the same, or to the Clerk of the Recorder's Court or 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 it has been imposed in Upper Canada,—and if it has been imposed in any New District in Lower Canada constituted by any Act of the session held in 1857, or passed in any subsequent session, 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 has been 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 and fees collected by him for the erection of a Court House and Gaol in such District, so long as such fees shall be collected to defray the cost of such erection. 22 V. c. 27, s. 8.

Payment and application of fines.

36. In the interpretation of this Act "property" shall be construed to include every thing included under the words "chattel, money, or valuable security," as used in the Act respecting offences against Property; and in case of any "valuable security," the value of the share, interest or deposit to which the security may relate, or of the money due thereon, or secured thereby, and remaining unsatisfied, or of the goods or other valuable thing mentioned in the warrant or order, shall be deemed to be the value of such security. 20 V. c. 27, s. 16.

Interpretation of words.

FORM (A.)

CONVICTION.

To wit : }

Be it remembered that on the _____ day of _____ in the year of Our Lord _____ at _____, A. B., being charged before me the undersigned _____, of the said City, and consenting to my deciding upon the charge summarily, is convicted before me, for that he 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 be imprisoned in the _____ (and there kept to hard labour) for the space of _____

Given under my hand and seal, the day and year first above mentioned, at _____ aforesaid.

J. S. [L. S.]

FORM

FORM (B.)

CERTIFICATE OF DISMISSAL.

To wit : } }

I, the undersigned, _____, of the City
of _____, certify that on the _____ day of
_____ in the year of Our Lord _____, at
aforesaid, A. B., being charged before me and consenting to
my deciding upon the charge summarily, for that he the said
A. B., &c., (*stating the offence charged, and the time and place
when and where alleged to have been committed,*) I did, having
summarily adjudicated thereon, dismiss the said charge.

Given under my hand and seal, this
day of _____, at _____ aforesaid.

J. S. [L. S.]

FORM (C.)

CONVICTION UPON A PLEA OF GUILTY.

To wit : } }

Be it remembered that on the _____ day of
in the year of Our Lord _____, at _____, A. B.,
being charged before me the undersigned _____, of the said
City, for that he the said A. B., &c., (*stating the offence, and
the time and place when and where committed,*) and pleading
guilty to such charge, he is thereupon convicted before me of
the said offence; and I adjudge him the said A. B., for his said
offence, to be imprisoned in the _____ (and there kept to
hard labour) for the space of _____

Given under my hand and seal, the day and year first above
mentioned, at _____ aforesaid.

J. S. [L. S.]

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 :

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 five pounds, as the said Justices may adjudge. 20 V. c. 29, s. 1.

Persons of not more than 16 committing certain offences may be summarily convicted by two Justices.

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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.

If offence not proved, case to be dismissed.

\$20

3. Such certificate shall be in the form or to the effect set forth in the form following : 20 V. c. 29, s. 1.

Form of certificate.

To wit : We, of Her Majesty's Justices of the Peace for the (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 said charge.

3

Given under our hands (or my hand) this day of

Case may be tried, &c., if Justices think fit.

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. 5

Justices to give person charged the option of a trial by Jury.

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 : 20 V. c. 29, s. 2. 10

“ 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

Power to J. Ps. to hear and determine.

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. 25

Same power to Recorder, &c., and certain other functionaries.

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, 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. 30 35 40

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 45 same

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.

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.

Proceedings under this Act a bar to further proceedings.

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.

Mode of compelling appearance of person punishable on summary conviction.

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.

Power to one Justice to remand or take bail.

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.

Condition of recognizance.

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.

Recognizance may be enlarged.

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

Application of fines.

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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. 5

Any Justice of the Peace may summon witnesses. **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. 10

And bind by recognizance. **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. 15

In case of refusal Justice may compel attendance of witness. **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. 20

How summons may be served. **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. 25

Form of conviction. **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 in any other form of words to the same effect, that is to say : 30

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 _____
 _____, 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 _____) 45

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.

15 **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 convicted, and there be a good and valid conviction to sustain the same. 20 V. c. 29, s. 12. Commitment not void for defect, &c.

25 **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. Convictions by J. Ps. where returnable.

30 **22.** Each such Clerk of the Peace shall transmit to the Provincial 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. Quarterly return, &c., to the Provincial Secretary.

35 **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.

45 **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

* NOTE.—See 22 V. c. 28, s. 3.

or by instalments at such periods as the Court deems reasonable. 20 V. c. 29, s. 14.

The party so ordered to pay may be sued, &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. 5

Recovery of penalties.

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. 10 15

Committal for non-payment.

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. 20

Expenses of prosecution how to be paid.

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 apprehension and detention of any person so charged. 20 V. c. 29, s. 16. 25 30 35

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 *bonâ fide*. 20 V. c. 29, s. 16. 40

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 45

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 ~~forty shillings~~. 20 V. c. 29, s. 16.

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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 ~~one shilling~~ 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.

Orders for payment how to be made and upon whom.

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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.

Protection of persons acting under this Act.

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.

Notice in writing to be given to defendant.

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.

If the defend-
ant be suc-
cessful.

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. 5

CAP. CVII.

An Act respecting Prisons for Young Offenders.

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

1. The Governor may cause to be erected or provided two buildings, one to be situated in Lower Canada, and one in Upper Canada, to be used as Prisons for the confinement and reformation of such offenders as are hereinafter specified ; and so soon as the said buildings are completed and fitted for that purpose, may declare the same by Proclamation to be Reformatory Prisons for the confinement of such offenders. 20 V. c. 28, s. 1. Reformatory Prisons to be erected in each section of the Province.
2. The Governor may appoint for each of the said Prisons, a Warden, a Protestant Chaplain, a Roman Catholic Chaplain, a Surgeon and a Clerk, to hold office during pleasure. 20 V. c. 28, s. 2. Officer to be appointed by the Governor.
3. The Warden of each of the said Prisons, by and with the consent of the Inspectors to be appointed under the Prison and Asylum Inspection Act, being chapter one hundred and ten, may appoint such other Officers, Assistants and Servants as may be necessary for the service and discipline of the Prison, and at pleasure remove the same and appoint others in their room. 20 V. c. 28, s. 3. Other officers by the Warden.
4. The Inspectors and each of them appointed under the aforesaid Act shall have and perform the same powers and duties, with respect to each of the said Reformatory Prisons, as are vested in or to be performed by them or one of them as Inspectors of the Provincial Penitentiary of Canada, except in so far as the said powers and duties may be altered by this Act, and any one of the Inspectors appointed under this Act shall have and perform the same powers and duties, with respect to such Reformatory Prisons (except as aforesaid) as are vested in one Inspector by the said Act relating to the Penitentiary. 20 V. c. 28, s. 4. Powers of Inspectors
5. So soon as the said buildings are declared by Proclamation to be Reformatory Prisons as aforesaid, any Court of Criminal Jurisdiction in this Province, may in its discretion, sentence any person, whose age at the time of trial does not in the opinion of such Court exceed the age of twenty-one years, and who has been convicted before such Court of any offence punishable by imprisonment in the Penitentiary, to be imprisoned in one of the said Reformatory Prisons instead thereof. 20 V. c. 28, s. 5. Certain offenders under 21 years may be sent to the said prisons instead of the Penitentiary.

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Translator

Length of imprisonment.

6. In no case shall the sentence be less than six months or more than five years confinement in any such Reformatory Prison, and in every case when the length of imprisonment is fixed by law to be more than five years, then such imprisonment shall be in the Penitentiary. 20 V. c. 28, s. 5.

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The persons so convicted may be sent to the Reformatory Prison for Upper or Lower Canada, as the case may be.

7. The persons so convicted in Lower Canada shall be sentenced to imprisonment in the Reformatory Prison for Lower Canada, and those convicted in Upper Canada, to imprisonment in the Reformatory Prison for Upper Canada. 20 V. c. 28, s. 5.

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And certain others instead of being sent to the Common Gaol—and by what authority.

8. Whenever, after the said buildings have been declared by Proclamation to be Reformatory Prisons, any person under the age of sixteen years is convicted of any offence punishable by law on summary conviction, and thereupon sentenced and committed to prison in any Common Gaol, then and in every such case which occurs in Lower Canada, any Judge of the Superior Court

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Lower Canada, and in every such case which occurs in Upper Canada, any Judge of either of the Superior Courts of Upper Canada, and any Judge of any County Court (in any case occurring within his County,) may examine and enquire into the circumstances of such case and conviction, and may direct such offender to be sent, either forthwith, or at the expiration of his sentence, to the Reformatory Prison for that section of the Province within which such conviction was had, to be there detained for a period of not less than six months and not exceeding two years, and such offender shall be liable to be detained pursuant to such direction. 20 V. c. 28, s. 6.

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No offender to be so sent unless sentenced to the Common Gaol for 14 days

9. No offender shall be directed to be so sent and detained as aforesaid, unless the sentence of imprisonment to the Common Gaol as aforesaid, be for fourteen days at the least. 20 V. c. 28, s. 6.

Governor may order his discharge.

10. The Governor may at any time order any such offender to be discharged from such Reformatory Prison. 20 V. c. 28, s. 6.

Governor may cause any convict under 21 to be removed to a Reformatory Prison.

11. The Governor may, at any time, in his discretion cause any convict in the Penitentiary whose age may appear to the Inspectors not to exceed the age of twenty-one years, to be transferred to either of the Reformatory Prisons of this Province, for the remainder of the term of imprisonment for which such convict has been sentenced. 22 V. c. 88, s. 2.

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Transfer of offenders from one prison to another.

12. The Governor may at any time transfer any offender from one of the said Reformatory Prisons to the other, and at pleasure re-transfer such offender. 20 V. c. 28, s. 8.

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13. The Governor may at any time, on report of the Inspectors, order any offender sentenced under the fifth section of this Act, to be removed from either of the said Reformatory Prisons, as incorrigible; and in every such case, the offender shall be confined in the Penitentiary for the remainder of the term of imprisonment for which such convict was originally sentenced in such Reformatory Prison. 20 V. c. 28, s. 9.

Incorrigible offenders to be removed to the Penitentiary.

14. The Warden of a Reformatory Prison established under this Act, shall have and perform the same powers and duties, with respect to such Prison, as are vested in the Warden of the Provincial Penitentiary by law, except in so far as they may be altered by this Act or by the rules made under the next succeeding section. 20 V. c. 28, s. 10.

Powers and duties of Wardens.

15. The Inspectors aforesaid may, from time to time, frame rules for the government and regulation of the said Reformatory Prisons respectively, and for the discipline of the offenders imprisoned therein, and shall submit such rules to the Governor, and upon such rules being approved by him, they shall thereupon be enforced in such Prisons respectively; and all such rules shall be laid before Parliament within six weeks after the then next meeting of Parliament. 20 V. c. 28, s. 11.

Inspectors to make rules for such Prisons.

To be laid before Parliament.

16. The Governor may cause to be procured and provided, surrounding or adjacent to each of the Reformatory Prisons, a tract of land fit for agricultural purposes not exceeding two hundred acres for each Prison, and may cause the same to be securely inclosed, and each Prison shall be held to include all the land contained within such inclosure. 20 V. c. 28, s. 12.

Farm may be attached to such Prison, and considered as part thereof.

Translator

17. The Governor at any time hereafter, should he deem it expedient, may cause to be procured and fitted up, at or below the City of Montreal, a Hulk or Receiving-Ship, in every respect fit for Ocean Service, and may appoint a Captain and other Officers thereto, and from time to time may cause to be transferred by Warrant, from either of the Reformatory Prisons, such offenders as may desire to embrace a seafaring life, and as the Governor may think fit so to transfer: and such Hulk shall be held to be a Reformatory Prison and be subject to the provisions of this Act relating to Reformatory Prisons, so far as they can be made applicable thereto; and the Captain so to be appointed shall be the Warden of the same, and have and perform all the powers and duties incident to that office. 20 V. c. 28, s. 13.

Hulk may be fitted up and used as a Reformatory Prison.

Captain to be as Warden.

C A P . C V I I I .

An Act respecting a Lunatic Asylum for Criminal Convicts.

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

Asylum for Criminal Lunatics to be provided at Kingston.

How to be governed

In what cases convicts shall be removed to the Asylum.

Re-conveyance to the Penitentiary in certain cases.

Powers for the conveyance of such convicts, &c.

1. An Asylum shall be erected or provided in the vicinity of the Provincial Penitentiary and within the limits of the City or Township of Kingston, for the reception of Lunatic Convicts, to be called the Criminal Lunatic Asylum; and the Governor may appoint thereto a Medical Superintendent and other officers with the same powers and duties as those possessed and performed by similar officers of the Provincial Lunatic Asylum at Toronto, according to the provisions of the Act relating to that Asylum; and the Inspectors appointed under the Act respecting Inspectors of Lunatic Asylums shall have and perform the same powers and duties with respect to the said Criminal Lunatic Asylum as are vested in them by virtue of that Act with respect to the said Asylum at Toronto. 20 V. c. 28, s. 28.

2. Whenever it is certified to the Warden of the Penitentiary, by the Surgeon of the Provincial Penitentiary and the Medical Superintendent of the said Criminal Lunatic Asylum, that any convict confined in the Penitentiary is insane, and that it is desirable that such convict should be removed therefrom to the Lunatic Asylum, the Warden shall cause such convict to be conveyed to the said Criminal Lunatic Asylum; and such convict shall be received into the said Asylum and there safely kept until he be removed to the said Penitentiary. 20 V. c. 28, s. 29.

3. If at any time before the expiration of his term of imprisonment, it be certified by the Medical Superintendent of the said Asylum that such convict has recovered his reason and is in a fit state to be remanded to the Penitentiary, then the Warden shall cause such convict to be re-conveyed to the said Penitentiary and kept therein. 20 V. c. 28, s. 29.

4. The authorities of the said Asylum and the person appointed to convey any convict to the said Asylum, or to reconvey him to the said Penitentiary, shall have the same power and authority to detain such convict or to re-take him in case of an escape, and to command the assistance of any persons, in retaking him, or in preventing such escape, as the Warden or other Officers of the Penitentiary, or any person appointed by a Sheriff to convey any convict to the Penitentiary after being sentenced to imprisonment therein, would have in the like case. 20 V. c. 28, s. 29.

5. If the term of imprisonment of any convict expires while he is detained in the said Asylum, he may, nevertheless, be detained therein until discharged as sane, or delivered to his friends under a warrant from the Governor to that effect. 20 V. c. 28, s. 29.

If convicts' term expire while he is still insane.

6. The said Criminal Lunatic Asylum shall, unless otherwise specially ordered by the Governor, be made and used as the Lunatic Asylum or place for the safekeeping of persons liable to be confined or kept in custody under the first, second and fourth sections of the Act respecting the confinement of Lunatics in cases where their being at large may be dangerous to the public. 20 V. c. 28, s. 31.

The said Asylum to be for Lunatics.

*Translator to
 arrange title
 See next paper*

C A P. C I X.

An Act respecting the confinement of Lunatics whose being at large may be dangerous to the public.

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

Jury acquitting prisoner on ground of insanity to state so in their verdict.

1. In all cases where it is given in evidence upon the trial of any person charged with any offence, whether the same be treason, felony or misdemeanor, that such person was insane at the time of the commission of such offence, and such person is acquitted, the Jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by them on account of such insanity; and if they find that such person was insane at the time of committing such offence, the Court before whom such trial is had, shall order such person to be kept in strict custody in such place and in such manner as to the Court seems fit, until Her Majesty's pleasure be known. 14, 15 V. c. 83, s. 1. 5 10 15

Governor may order such person to be kept in safe custody.

2. The Governor may thereupon give such order for the safe custody of such person during Her Majesty's pleasure, in such place and in such manner as to the Governor seems fit. 14, 15 V. c. 83, s. 1. 20

Governor may give like order—in what other cases.

3. In all cases where any person before the passing of this Act has been acquitted of any such offence on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the Court before whom such person was tried, and still remains in custody, the Governor may give the like order for the safe custody of such person during the pleasure of Her Majesty as He is hereby enabled to give in the cases of persons acquitted under the first section of this Act, on the ground of insanity. 14, 15 V. c. 83, s. 1. 25 30

Similar provisions with respect to persons indicted for any offence and found to be insane by a Jury

4. If any person indicted for any offence be insane, and upon arraignment be so found by a jury empannelled for that purpose, so that such person cannot be tried upon such indictment, or if, upon the trial of any person so indicted, such person appears to the Jury charged with the indictment to be insane, the Court before whom such person is brought to be arraigned or is tried as aforesaid, may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody until Her Majesty's pleasure be known. 14, 15 V. c. 83, s. 2. 35 40

5. If any person charged with an offence be brought before any Court to be discharged for want of prosecution, and such person appears to be insane, the Court shall order a jury to be empannelled to try the sanity of such person; and if the Jury so empannelled find him to be insane, the Court shall order such person to be kept in strict custody in such place and in such manner as to the Court seems fit, until Her Majesty's pleasure be known. 14, 15 V. c. 83, s. 2.

If Jury find person insane, Court may direct such person to be kept in safe custody.

6. In all cases of insanity so found, the Governor may give such order for the safe custody, during Her Majesty's pleasure, of the person so found to be insane, in such place and in such manner as to him seems fit. 14, 15 V. c. 83, s. 2.

In all cases of insanity Governor may give order. &c.

7. If any person has been discovered and apprehended under circumstances that denote a derangement of mind, and a purpose of committing some crime, for which, if committed, such person would be liable to be indicted, and any of Her Majesty's Justices of the Peace before whom such person may be brought, thinks fit to issue a Warrant for committing him as a dangerous person suspected to be insane, such cause of commitment being plainly expressed in the Warrant, the person so committed shall not be bailed except by two Justices of the Peace, one whereof shall be the Justice who has issued such Warrant, or by the Court of General Quarter Sessions, or in Lower Canada by one of the Judges of Her Majesty's Court of Queen's Bench, or one of the Judges of Her Majesty's Superior Court for that Section of the Province, or in Upper Canada by one of the Judges of Her Majesty's Superior Courts of Law or Equity at Toronto. 14, 15 V. c. 83, s. 3.

Persons committed by J. P. as insane, how bailable.

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~~Section in~~
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8. If any person, while imprisoned in any prison or other place of confinement, under sentence of death, or of imprisonment, or under a charge of any offence, or for not finding bail for good behaviour or to keep the peace, or to answer a criminal charge, or in consequence of any summary conviction or order by any Justice or Justices of the Peace, or under any other than Civil Process, appears to be insane, any two Justices of the Peace of the District, County, City, Town or place where such person is imprisoned, of whom the Chairman of the Quarter Sessions for the County, if in Upper Canada, or a Judge of the Superior Court if in Lower Canada, shall be one, shall inquire with the aid of two Physicians or Surgeons, as to the insanity of such person; and if it be duly certified by such Justice and such Physicians or Surgeons that such person is insane, the Governor, upon receipt of such Certificate through the Provincial Secretary, may direct by Warrant under his Hand and Privy Seal, that such persons shall be removed to such public Lunatic Asylum, or other proper receptacle for insane persons, as he may judge proper and appoint in that behalf. 14, 15 V. c. 83, s. 4.

Two J. Ps., with medical aid, may inquire into case of prisoner becoming insane.

s or judge

On their certificate of his insanity, the Governor may order his removal to a Lunatic Asylum.

There to remain until duly certified to be sane.

9. Every person so removed under this Act, or already removed, or in custody, by authority of the Governor, shall remain under confinement in such Asylum or other proper receptacle as aforesaid, or in any other public Lunatic Asylum, or other proper receptacle to which such person may be removed, or in which he may be in custody by virtue of any like order, until it has been duly certified to the Governor through the Provincial Secretary, by two Physicians or Surgeons, that such person has become of sound mind, whereupon the Governor, if such person still remains subject to be continued in custody, may issue his Warrant under his Privy Seal to the Keeper or other person having the care of any such public Asylum or receptacle as aforesaid, directing that such person shall be removed from thence back to the prison or other place of confinement from whence he was taken, or if the period of imprisonment or custody of such person has expired, that he shall be discharged. 14, 15 V. c. 83, s. 4.

Dangerous Lunatics to be confined by warrant of J. P.

10. Any two or more Justices of the Peace, residing in the City, Town, Village, Township, Parish or place where such lunatic or mad person may be found, of whom the Chairman of the Quarter Sessions for the County if in Upper Canada, or a Judge of the Superior Court if in Lower Canada, shall be one, may by Warrant under their Hands and Seals, directed to the Constables, or some of them, of any such City, Town, Village, Township, Parish or place, cause such person to be apprehended and kept safely locked up in some secure place within the District or County where such City, Town, Village, Township, Parish or place lies, as such Justices under their Hands and Seals direct and appoint. 14, 15 V. c. 83, s. 5.

And if necessary sent to place of settlement.

11. If the last legal settlement of such person was in any Parish, Town or place within such District or County, and if such person be not then there, such person shall be sent to the place of his last legal settlement, and shall be locked up in manner aforesaid, by Warrant of two Justices of the District or County to which such person is so sent, of whom the Chairman of the Quarter Sessions for such last mentioned County if in Upper Canada, or a Judge of the Superior Court if in Lower Canada, shall be one, and the reasonable charges of removing, and of keeping, maintaining and curing of such person during such restraint, (which shall be for and during such time only as such lunacy or madness continues) shall be satisfied and paid (such charges being proved upon oath), by order of two or more Justices of the Peace, directing the Treasurer of the Municipal Corporation of the City, Town, Village, Township, Parish or place where any goods, chattels, lands or tenements of such person may be, to seize and sell so much of the goods and chattels, or receive so much of the annual rents of the lands and tenements as may be necessary to pay the same, and to account for what is so seized, sold or received, to the next Quarter Sessions; but if such person hath not an

Goods and lands of such lunatics how disposed of.

an estate to pay and satisfy the same, over and above what is sufficient to maintain his family, then such charges shall be satisfied and paid by the City, Town, Village, Township, Parish or place to which such person belongs, by order of two
5 Justices, directed to the Treasurer of the Municipal Corporation thereof for that purpose. 14, 15 V. c. 83, s. 5.

12. The last preceding section of this Act, shall not extend to restrain or abridge the prerogative of the Queen, or the power or authority of the Court of Chancery in Upper Canada, or the
10 Superior and Circuit Courts in Lower Canada, or of any Master or Judge thereof, or of any Committee or Curator appointed by or under the authority of the same, touching or concerning such last mentioned lunatics, or to restrain or prevent any such
15 Committee or Curator, or any friend or relation of such last mentioned lunatics, from taking them under their own care and protection. 14, 15 V. c. 83, s. 6.

Section 11 not to restrain or abridge the prerogative of the Queen, &c.

13. In all cases where any person is, by virtue of the first, second, third, fourth, fifth and sixth sections of this Act, kept in custody as a lunatic or insane person by order of any Court, or
20 by order of the Governor subsequent thereto, any two Justices of the Peace of the District or County where such person is so kept in custody, of whom the Chairman of the Quarter Sessions for the County, if in Upper Canada, or a Judge of the Superior
25 Court, if in Lower Canada, shall be one, may, by the best legal evidence that can be procured, inquire into and ascertain the circumstances of personal legal disability of such lunatic, the place of the last legal settlement, and the circumstances of such person; and if it does not appear that he is possessed of sufficient property which can be applied to his maintenance, may
30 make an order upon such City, Town, Village, Township, Parish or place where they adjudge him to be legally settled, to pay such weekly sum for his maintenance while in the place of custody which the Court or Governor has appointed, as shall from time to time be fixed upon by the Governor and by him
35 directed in writing, through the Provincial Secretary. 14, 15 V. c. 83, s. 7.

Justices to inquire into circumstances of insane persons and make order for their maintenance.

14. Where such place of settlement cannot be ascertained, such allowance shall be paid by the Treasurer of the Municipal Corporation of the City, Town, Village, Township, Parish or
40 place where such person has been apprehended. 14, 15 V. c. 83, s. 7.

In certain cases allowance to be paid by the Treasurer.

15. If it appears that such person is possessed of sufficient property as aforesaid, then such Justices shall order and direct the same to be applied to pay and satisfy the expense of the
45 maintenance of such person, in the manner directed, in the case of lunatics and mad persons, by the eleventh section of this Act. 14, 15 V. c. 83, s. 7.

If person has sufficient property to pay his own expenses.

16.

Municipal Corporations may appeal against order of J. Ps., &c.

16. The Municipal Corporation of the City, Town, Village, Township, Parish or place in which the said Justices adjudge any lunatic to be legally settled, may appeal against such order to the General Quarter Sessions of the Peace, to be hold-
 en for the District or County where such order has been made, 5
 in like manner and under like restrictions and regulations as
 against any other judgment, order or decision of a Justice or
 Justices, giving reasonable notice thereof to the Clerk of the
 Peace of such District or County, who shall be respondent in
 such appeal, which said appeal the Justices of the Peace, as- 10
 sembled at the said General Quarter Sessions, are hereby au-
 thorized and empowered to hear and determine, in the same
 manner as other appeals to Courts of Quarter Sessions, are
 now heard and determined in Upper or in Lower Canada
 respectively. 14, 15 V. c. 83, s. 7. 15

Persons to be deemed settled.

17. Every person of full age who has been a resident and inhabitant of any City, Town, Village, Township, Parish or place for one year, and the members of his family who have not gained a separate settlement, shall, for the purposes of this Act, be deemed settled in such City, Town, Village, Township or 20
 place. 14, 15 V. c. 83, s. 8.

Settlement how gained.

18. A minor may be emancipated from his father, and may gain a settlement in one or more of the following ways, viz :
 First, If a female, by being married, and living for one year with her husband, in which case the husband's settlement shall de- 25
 termine that of the wife. Second, If a male, by being mar-
 ried, and residing for one year separately from the family of
 his father. Third, By being bound as an apprentice, and serv-
 ing one year as such under indentures of apprenticeship.
 Fourth, By being hired and actually serving for one year for 30
 wages to be paid to such minor ; and a woman of full age, by
 marrying, shall acquire the settlement of her husband, if he
 have any ; and until a person has gained a settlement in his
 own right, his settlement shall be deemed that of his father or 35
 mother. 14, 15 V. c. 83, s. 8.

When the place of birth or residence shall not constitute a settlement.

19. No child born in any Hospital, Lunatic or other Asylum, Gaol, or House of Correction, or other like place of reception or involuntary residence, and no child born while its mother is restrained of her liberty in virtue of this Act, shall gain any settlement, merely by reason of the place of such birth ; nor 40
 shall any residence of any person as a lunatic in any such
 place of reception or involuntary residence as aforesaid operate
 to give such lunatic a settlement in the City, Town, Village,
 Township, Parish or place where such actual residence may 45
 be had. 14, 15 V. c. 83, s. 8.

C A P . C X .

An Act respecting Inspectors of Public Asylums, Hospitals, the Provincial Penitentiary of Canada, and of all Common Gaols and other Prisons.

Translated

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

1. *The Inspectors and their Meetings.*

1. The Governor may appoint five fit persons to be inspectors of the Provincial Penitentiary of Canada, and of all Common Gaols and other Prisons, and of all Public Asylums and Hospitals, in this Province, and appoint one of such persons to be their Chairman, and the said Inspectors shall hold office during pleasure. 20 V. c. 28, ss. 14, 16. **Appointment of Board of Inspectors.**
2. The said Inspectors shall hold their meetings as a Board, at such place as may from time to time be appointed by the Governor, the Chairman shall preside at such Board, and the Chairman and any two Inspectors shall constitute a *Quorum* at their meetings for all purposes whatsoever. 20 V. c. 28, s. 15. **Meetings— who shall preside.**
3. The Chairman at such Board shall have a right to vote as an Inspector, and in case of an equality of votes shall also have a casting vote—and he shall keep a regular minute of the proceedings of each meeting, and sign the same. 20 V. c. 28, s. 15. **Chairman to vote as Inspector.**
4. In case of the absence of the Chairman, any one of the Inspectors may be appointed by the Governor to act in his stead during such absence. 20 V. c. 28, s. 15. **In case of Chairman's absence.**

2. *The Government of the Penitentiary.*

5. The Provincial Penitentiary of Canada shall be governed by the said Inspectors, subject to the control of the Governor in Council, and they shall obey such orders in Council as may be from time to time made for their government in the execution of their said duty. The said Inspectors shall be responsible for the system of discipline and management pursued in the Penitentiary, and for its success and practical efficiency ; but they shall have no executive power, except that of giving instructions for the conduct and management of the Institution and its affairs to the Warden, and through him to the other executive officers. 14, 15 V. c. 2, s. 9. **Powers and duties of Inspectors.**
6. In order that the responsibility of the Inspectors may not be lessened by the incapacity, inefficiency, or negligence of those who are to carry out their views, the said Inspectors, in the event of the existence of detrimental incapacity, inefficiency or negligence, on the part of any officer of the said Penitentiary not removable by them, shall represent to the Governor in Council **Removal of Inspector for incapacity, &c.**

without delay, that such is the case, and what is the nature of their complaint against such officer, and what is the injurious effect produced upon the Institution, and may recommend, if they see fit, the removal of such officer. 14, 15 V. c. 2, s. 9.

Inspectors disqualified from being elected as Members of the Legislative Assembly.

7. The said Inspectors shall be incapable of and disqualified from being elected or returned to be Members of the Legislative Assembly of this Province, and also shall be subject to the penalties contained in the Statute in that behalf, in the event of their presuming to sit or vote as such Members. 14, 15 V. c. 2, s. 9. 5 10

Inspector shall *ex officio* be a J. P.

8. Each of the said Inspectors shall, by virtue of his office of Inspector, without any property qualification, be a Justice of the Peace for each and every District, County and City in the Province of Canada. 14, 15 V. c. 2, s. 15.

Further duties of Inspectors.

9. It shall be the duty of the said Inspectors— 14, 15 V. c. 15 2, s. 10. 15

Firstly. To make and amend, from time to time, all necessary rules and regulations respecting the conduct, management, discipline and police of the Penitentiary, consistent with this Act and the Laws of this Province; which rules and regulations the officers of the Penitentiary and all others employed therein shall obey. 20

Secondly. To consider and determine the branches of employment to be prosecuted in the Penitentiary, and the manner in which the same are to be prosecuted: whether by hiring out the labour of the convicts to contractors, or by executing orders for articles under contract, as may be found most conducive to promote the objects of the Institution and the public interest. 25

Thirdly. To consider and determine the terms on which agreements are to be entered into by the Warden of the Penitentiary, with parties contracting for the labour of the convicts or the proceeds of their labour, and also with parties contracting to supply articles for the use of the Penitentiary. 30

Fourthly. To consider and determine the system of secular education, and the place and time of the moral and religious training and instruction to be afforded to the convicts in the Penitentiary, but the time for religious training and instruction shall not be determined upon without the consent of the Chaplains of the Penitentiary. 35

Fifthly. To consider and determine what acts on the part of the convicts shall be held as punishable offences, and the several punishments to be awarded by the Warden for such offences. 40

Sixthly.

Sixthly. To consider and determine the number of Overseers, Keepers and Guards to be employed in the Penitentiary, and the routine of their several duties, the hours of their attendance, and the rules by which their conduct in the Prison is to be
5 guided.

Seventhly. To prescribe the articles of food and clothing, and the quantities and quality thereof to be supplied to the convicts in the Penitentiary.

Eighthly. To consider and determine from time to time the
10 necessary repairs, alterations or additions to the buildings and other works of the Penitentiary, and when and how such repairs, alterations or additions shall be executed.

Ninthly. To examine and enquire, at the times hereinafter named, into all matters connected with the government, discipline and police of the Penitentiary, and into its state and condition; also as to the conduct of its officers, and whether their duty is efficiently performed, and the objects and ends of the Institution are being attained.
15

Tenthly. To examine and enquire into the financial and
20 commercial affairs of the Institution, to see that the contractors fulfil their agreements,—that economy and diligence are practised in every branch of the establishment,—that the finances are administered faithfully, and proper vouchers and records kept of all transactions,—that the food is wholesome
25 and sufficient,—that offences are wisely and humanely punished,—and that order and cleanliness prevail in the Prison.

10. For the efficient discharge of their several duties by the said Inspectors, they are hereby empowered. 14, 15 V. c. 2, s. 11. Further powers to Inspectors.

Firstly. To have, severally, admission at all times to the
30 Penitentiary, and to every part of it, and to the several vouchers, books and records thereof.

Secondly. To investigate the conduct of any officer or other person employed in the Penitentiary, and into all matters by the said Inspectors deemed to affect the welfare of the Institution; and for these ends, they or either of them may
35 issue *Subpœnas* to compel the attendance of any officer of the Penitentiary, or any other person or persons as a witness or witnesses, and the production of papers and writings before them; and any person who has been duly summoned to
40 attend and give evidence before the said Inspectors in pursuance of this Act, and refuses or wilfully neglects to appear in pursuance of such Summons, or to give evidence, shall, upon conviction thereof before one Justice of the Peace, not being one of the Inspectors, be fined in such sum, not exceeding Five
45 Pounds, as to the Justice seems meet, and in default of
75 * payment

820 /

payment thereof, together with the costs, a Warrant may be issued by such Justice to levy the same by distress and sale of the goods of the party offending, (the overplus if any to be returned to the owner,) and if no sufficient distress can be found, then the party convicted may be committed to the Common Gaol for any term not exceeding one month, unless payment be sooner made ; And the party so convicted shall have the same appeal as a party convicted under the law for the punishment of malicious injuries to property : And any witness who appears before the said Inspectors, or either of them, may be examined on oath or affirmation, to be administered by either of the said Inspectors. 5 10

Thirdly. To require at any time reports in writing from the Warden, or any other Officer of the Penitentiary, in relation to any matter connected with his department of duty in the Prison. 14, 15 V. c. 2, s. 11. 15

Duties of Inspectors in visiting the Penitentiary, &c.

11. For the better securing the efficient discharge of their several duties by the said Inspectors 14, 15, V. c. 2, s. 12.

Firstly. The said Inspectors shall visit the said Penitentiary jointly as often as they see fit, but at least four times in each year, namely in February, May, August and November of each year, and shall devote not fewer than seven consecutive days at each such joint visit to a rigid inspection of the whole affairs, management and condition of the Institution ; And in the event of the death or unavoidable absence of any one Inspector from any such quarterly visit and meeting of the Board, the Warden shall be invested with all the powers of, and shall act as an Inspector at such meeting ; but the Warden shall not so act as Inspector at two consecutive meetings of the Board. 20 25 30

Secondly. One of the said Inspectors shall visit the Penitentiary at least once in every month, and devote not fewer than two days to the inspection of its affairs ; and, unless otherwise arranged between themselves, the said monthly visits shall be made by them alternately. 35

Thirdly. The said Inspectors shall keep regular Minutes of all their visits and proceedings, whether individual or joint. The proceedings at all joint visits shall be entered by the Clerk of the Penitentiary in a Book kept for that purpose, and the decisions recorded therein, when signed by the two Inspectors, shall be the formal action of the Board of Inspectors, and have full force according to the provisions of this Act as such, and nothing which is not therein recorded shall have such authority ; and to the said Minute Book the Warden shall have access at all times, and he shall keep himself acquainted with the contents thereof, and guide himself thereby : And the said Inspectors shall keep a Memorandum Book, in which each Inspector 40 45

Inspector on his individual visits to the Prison shall enter any remarks on the state of the Prison, or on the conduct of any Officer, or any suggestions he may deem it advisable to make for the better conduct of the Institution.

- 5 *Fourthly.* The said Inspectors shall draw up a Code of Rules and Regulations for the government of the Prison, specifying clearly the duties of the Officers of the several grades ; which Code shall be printed and placed within access of every Officer of the Institution. And there shall further be kept a
- 10 Book of Record, in which the Inspectors at their joint meetings shall enter from time to time any amendments or additions they may see fit to make to such Rules and Regulations, and any instructions or admonitions they may find it necessary to communicate to the Warden, Chaplains, Physician, Deputy-
- 15 Warden or Clerk of the Penitentiary, and which shall at all times be accessible to these Officers : and there shall further be kept a similar Book of Record for the guidance of the remaining Officers of the Prison ; and all orders made by the Inspectors in such Book of Record, consistent with this Act
- 20 and the Laws of the Province, shall be followed and obeyed by the Officers of the Prison ; but no Rules or Regulations laid down by the Inspectors shall be held binding or valid unless entered therein.

- 25 *Fifthly.* The said Inspectors or one of them, at each monthly visit, shall examine the cash and credit transactions of the Penitentiary for the previous month, and administer the oath hereinafter provided to be taken by the Warden and Clerk to the correctness of each month's accounts, according to a Statement to be regularly furnished by the Warden and Clerk for
- 30 that purpose.

Sixthly. The said Inspectors or one of them, at each monthly visit, shall inspect every cell in the Penitentiary once at least ; and they shall do so jointly at each quarterly meeting.

- 35 *Seventhly.* The said Inspectors at their quarterly meetings, shall require from the Warden a Statement and Balance-sheet of the affairs of the Institution for the previous three months, and shall examine and certify the correctness of the Accounts, Vouchers and Balance-sheet.

- 40 *Eighthly.* The said Inspectors, at the November quarterly meeting of each year, shall appoint two well qualified persons to value the property, real and personal, of the Penitentiary, according to an inventory to be prepared and furnished to them by the Warden for that purpose ; and the said valuers shall make oath to the fidelity of their valuation, according to
- 45 the best of their knowledge and belief, before any Justice of the Peace for the United Counties of Frontenac, Lennox and Addington ; and the said inventory shall be made as at the
- Thirty-first

Thirty-first December of every year, and be completed, with the valuations attached, by the Twenty-fifth day of January next succeeding the date to which it is made up.

Ninthly.—The said Inspectors shall require from the Warden, Chaplains and Physician, and from any other Officer, an annual report of the transactions and progress of their several departments in the Prison during the past year, with such details and returns as the said Inspectors may deem necessary; which said reports shall be made up to the Thirty-first day of December of each year, and be in the possession of the Inspectors by the Twenty-fifth day of January following.

Inspectors to report annually. *Tenthly.*—The said Inspectors shall make an annual report to the Governor General on or before the tenth day of February in each year, giving a complete statement of the affairs of the Penitentiary from the first day of January to the Thirty-first day of December of the year preceding; and the said annual report shall comprise :

- A. A copy of the Warden's report to the Inspectors.
- B. Copies of the Chaplains' reports to the Inspectors.
- C. Copy of the Physician's annual report. 20
- D. A return of the names, ages, country, callings and crimes of the convicts received into the Penitentiary during the year, and the Township, Parish, County, City and District from which each came.
- E. A return of the names, ages, callings and crimes of the convicts who died in the Penitentiary during the year, and the Township, Parish, County, City and District from which each came. 25
- F. A similar return of the convicts who had the Royal pardon extended to them during the year. 30
- G. A similar return of the convicts liberated during the year by the expiration of the term for which they were sentenced.
- H. A tabular statement shewing the number of prisoners in the Penitentiary at the date to which the last previous annual report was made up, the number received during the year, the number discharged, the number then in confinement, and the average number in the Prison during the year; and the said statement shall further shew these particulars separately as to the male and female prisoners, and as to the military prisoners distinguished from the civilians. 35

I. A statement of the contracts for convict labour entered into during the past year, shewing the nature, the terms and the duration thereof.

J. A balance-sheet of the affairs of the Institution at the thirty-first day of December of the year reported upon, shewing the amount of cash received from the public Exchequer since the commencement of the Institution, the existing Assets of the Penitentiary, and the loss or gain accruing by its operations since the commencement.

10 K. A cash balance for the past year, shewing the sum on hand on the thirty-first day of December, the cash received through the year in payment of old debts, the amount received from Government towards the support of the Prison, the amount received for convict labour, the amount received for the support of military prisoners, the amount received for articles manufactured in the Prison at the risk of the Government, and the amounts received on all other accounts during the year. The said balance-sheet shall also shew separately the sums paid for food, bedding, clothing and hospital stores for the convicts—for the salaries of the Officers—fuel and light—for the erection of new buildings and repairs—for the support of the stable—and for all other items of expenditure ; also the cash on hand at the close of the year.

L. A statement of all the debts due by the Institution, shewing the names of the parties to whom each sum is due ; also shewing the debts due to the Institution, with the amounts and ground of each debt.

M. An abstract of the annual Inventory and valuation herein provided for, distinguishing the estimated value of the several descriptions of property.

N. An estimate of the receipts and expenditures for the current year, and of the amount of assistance likely to be required from the Provincial Exchequer.

O. A statement shewing in what manner the convicts were employed as at the thirty-first day of December of the year reported on, and the average number at each trade or occupation during the year.

And the said annual report of the Inspectors shall make a reference to any remarkable features presented in these several documents ; shall shew the progression or retrogression of the Institution in its several departments, and the probable causes thereof ; and shall make special reference to the moral effects of the discipline upon the convicts, and the general success of the Institution, as regard its higher aims ; and the said Inspectors shall bring under the notice of the Governor any facts

Further particulars in such report.

facts which may have come under their notice in regard to the working of the criminal laws and the penal system of the Province, or any injustice or inequality, which their experience may have shewn to arise therefrom, with whatever suggestions for the amelioration of the same, or generally for the prevention of crime and the reformation of criminals they may deem necessary and expedient. 14, 15 V. c. 2, s. 12.

Inspectors may suspend officers.

12. The Board of Inspectors may for misconduct summarily suspend any of the Officers of the Penitentiary appointed by the Governor, until the circumstances of the case, of which the Government shall be at once notified, have been submitted to and decided upon by the Governor, and the said Inspectors may, until then, cause any Officer so suspended to be removed beyond the walls of the prison, and in case of the suspension, removal, death, or lengthened necessary absence or sickness of the Warden, the Inspectors or one of them shall act in his room, until a successor to the said Warden has been appointed, or until the return of the said Warden to duty; and for this purpose the said Inspectors, or the one acting, is hereby invested with full power in such event to exercise all the duties and powers of the Warden while so acting in his room. And the Warden of the said Penitentiary may summarily suspend for misconduct the School-Master, the Store-keeper, the Clerk of the Kitchen, the Matron, the Assistant Matron, and any Overseer, Keeper or Guard in the Penitentiary until he has made one of the Inspectors acquainted with the facts of such alleged misconduct, and obtained his advice and consent to act therein, or has submitted the matter to the Board of Inspectors. 14, 15 V. c. 2, s. 14.

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Additions and improvements to be made to the Penitentiary.

13. The Inspectors of the said Penitentiary shall cause to be erected within the said Penitentiary, (at as early a period as practicable, consistently with keeping the annual grant from the funds of the Province towards the support of the Penitentiary within the sum of ~~six thousand pounds~~ in any one year) not exceeding fifty cells with a workshop attached to each cell, adapted to carry out the "separate" or "solitary" system of discipline; but the said solitary cells shall not be used until a set of rules, regulating the manner of their use and stated inspection, have been prepared by the inspectors, and have been submitted to the Governor in Council, and received his sanction. 14, 15 V. c. 2, s. 7.

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3. GAOLS, HOUSES OF CORRECTION AND OTHER PRISONS.

Inspectors to visit all Gaols, &c.

14. The Inspectors shall visit and inspect, either singly or together as may be determined upon by them, or as may be ordered by the Governor, every Gaol, House of Correction and Prison or place kept or used for the confinement of persons, in any part of this Province, other than the said Penitentiary, as often as may be determined upon by them or ordered

* NOTE. - Qu. already done

ordered by the Governor, and at least twice in the year ; and the said Inspectors or Inspector may examine any person holding any office or receiving any salary or emolument in any such place of confinement as aforesaid, and call for and inspect
 5 all books and papers relating to such place of confinement, and may enquire into all matters concerning the said place of confinement ; and every Inspector singly making an inspection as aforesaid shall make a separate and distinct report, in writing, to the Board of Inspectors, of the state of every place of confinement visited by him. 20 V. c. 28, s. 19.

May examine any officer, &c

15 **15.** From the time this Act takes effect, every Gaol erected in this Province shall be made and built according to a plan approved of by the Inspectors and sanctioned by the Governor; and no Gaol built after this Act takes effect in any District in Lower Canada or in any County in Upper Canada, otherwise than according to a plan approved and sanctioned as aforesaid, or that does not after its completion receive the approval of the said Inspectors, shall be deemed to be in law the Gaol of such District or County. 20
 20 V. c. 28, s. 20.

Inspectors, with approval of Governor, to determine the plan of all future Gaols, &c.

25 **16.** Every District Gaol in Lower Canada and every County Gaol in Upper Canada now erected, or which may be in course of erection when this Act comes into force, shall be inspected as speedily as may be convenient by the said Inspectors for the purpose of ascertaining whether such Gaol satisfies the requirements of the next succeeding section, and they shall report thereon to the Governor, and in Upper Canada transmit a copy of such Report to the Warden of every County in which such Gaol is situate, or in the course of erection as aforesaid.
 30 20 V. c. 28, s. 21.

To report on improvements required in Gaols, &c.

35 **17.** The Inspectors, before deciding in any case upon the plan of a Gaol most proper to be adopted, or upon any alterations or additions they may propose in their Report to be made according to the last preceding section of this Act, shall take into consideration--

Matters to be taken into consideration in determining the plan of any Gaol.

1. The nature and extent of the ground on which such Gaol has been or is to be built ;
2. Its relative situation to any streets and buildings and to any river or other water ;
- 40 3. Its comparative elevation and capability of being drained ;
4. The materials of which it has been or is to be composed ;
5. The necessity of guarding against cold and damp, and of providing properly for ventilation ;

6. The proper classification of persons, having respect to their age, sex, and the cause of their confinement ;

7. The best means of ensuring their safe custody without the necessity of resorting to severe treatment ;

8. The due accommodation of the keeper of the Gaol so that he may have ready access to the prisoners and may conveniently oversee them ; 5

9. The exclusion of any intercourse with persons without the walls of the building ;

10. The prevention of nuisances from whatever cause ; 10

11. The combining provision as well for the reformation of convicts so far as may be practicable, as for their employment, in order that the Common Gaols may really serve for places of correction ;

12. The admission of prisoners to air and exercise without the walls of the building ; and 15

13. The enclosure of the yard and premises with a secure wall. 20 V. c. 28, s. 22.

9

Provisions for securing the requisite improvements in the County Gaols in U. C.

18. Within seven months after the appointment of Inspectors as hereinbefore provided, the Warden of each County shall call a special meeting of the County Council—and such Council shall thereupon appoint a special committee to confer with the Inspectors and to arrange with them any alterations and additions that may be deemed necessary in their County Gaol to satisfy the requirements of the sixteenth section of this Act, and to report the same to the said County Council ; and in case the Inspectors and such Committee do not agree upon the alterations or additions, the matter shall then be referred to the Governor in Council to decide between them, and thereupon the decision shall be reported to the County Council ; and it shall be the duty of the said County Council in either case, by By-law, to order and provide for the making of the said alterations and additions, and for the appropriation of any money that may be required for that purpose. 20 V. c. 28, s. 23. 25 30 35

Certain points to be considered in deciding the alterations.

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19. The Inspectors and the said Special Committee of the County Council shall, in arranging the necessary alterations and additions as aforesaid, have due regard to the plan of the Gaol as they find it and to the ability of the County to meet the expense thereof, and shall make as few and as inexpensive alterations 40

(*) Note.—The beginning of this clause is new, but framed to secure the co-operation of the County Councils. See 20 V. c. 28, s. 23.

alterations and additions as in their opinion the requirements of this Act will allow. 20 V. c. 28, s. 25.

20. Each County Council in Upper Canada, shall levy and raise a sum by direct taxation sufficient to make the said alterations and additions, or at their option may borrow the money so required, under a By-law to be passed for that purpose, for such number of years as they may deem expedient ; in which By-law there shall be imposed and settled, over and above and in addition to all other rates, a special rate, to be levied in each year for the payment of the said loan, and sufficient, according to the last assessment returns before the passing of such By-law, to pay the whole amount of the said loan and interest within the period fixed by the said By-law for the payment thereof. 20 V. c. 28, s. 24.

County Councils in U. C. to raise money to make the required improvements— and how.

21. In order to aid the said County Councils in Upper Canada in making the said alterations and additions in the Gaols of their respective Counties, the Governor may pay from and out of the "Upper Canada Building Fund" to the Treasurer of each County, a sum not exceeding one half of the expense of the same, and not exceeding the sum of ~~one thousand five hundred pounds~~ for any one County. 20 V. c. 28, s. 26.

Aid to the Counties out of the U. C. Building Fund.

\$6000.00 /

22. The said Inspectors shall, as soon as may be convenient, frame a set of rules and regulations for the government of the Common Gaols of this Province, extending to---

Inspectors to make rules for the government of gaols.

1. The maintenance of the prisoners in regard to diet, clothing, bedding and other necessaries ;

2. Their employment ;

3. Medical attendance ;

4. Religious instruction ;

5. The conduct of the prisoners and the restraint and punishment to which they may be subjected ; and

6. Also to the treatment and custody of the prisoners generally, the whole internal economy and management of the Gaol, and all such matters connected therewith as may be thought by them expedient ;

Which rules and regulations shall be submitted to the Governor for his approval and confirmation : But nothing herein contained shall be held to prevent the County Councils in Upper Canada from making such special regulations as the peculiar circumstances of their respective Gaols and localities may in their opinion require,—such special regulations not being inconsistent with the provisions of this Act, or with the general rules and

and regulations so to be made by the Inspectors and approved by the Governor, as aforesaid. 20 V. c. 28, s. 27.

LUNATIC ASYLUMS, HOSPITALS AND OTHER BENEVOLENT INSTITUTIONS.

Inspectors to examine the Lunatic Asylum four times a year. **23.** With respect to the Provincial Lunatic Asylum in Toronto, the said Inspectors shall at least four times a year thoroughly examine the manner in which the said Institution is conducted, and examine the reports respectively made to them by the Medical Superintendent and Bursar. 16 V. c. 188, s. 5,—20 V. c. 28, s. 16. 5

And frame By-laws. **24.** The said Inspectors shall frame such By-laws as may seem to them advisable for the peace, welfare and good government of the Institution, which By-laws shall have effect in the Asylum when the Governor has signified his assent thereto. 16 V. c. 188, s. 5,—20 V. c. 28, s. 16. 10

To keep a record of proceedings and transmit to the Governor. **25.** The said Inspectors shall keep an exact record of all their proceedings, and transmit a copy thereof to the Governor signed by them or a majority of them. 16 V. c. 188, s. 6,—20 V. c. 28, s. 16. 15

Also the reports of the Medical Superintendent and Bursar. **26.** The said Inspectors shall, with their Annual Report to the Governor, transmit the reports made to them by the Medical Superintendent and Bursar, with their observations thereon. 20 V. c. 28, ss. 16, 36,—16 V. c. 188, ss. 3, 4, 5. 20

To visit all Hospitals supported wholly by public money. **27.** The Inspectors, either singly or together, as often as may be determined upon by them, or be ordered by the Governor, and at least twice in the year, shall visit, examine and report to him upon the state and management of every Hospital or other Benevolent Institution supported wholly by grant of public Money, or by Money levied under authority of Law. 20, V. c. 28, s. 34. 25

And also those so supported in part. **28.** The inspectors, either singly or together, whenever required by the Governor so to do, shall visit, examine and report to him upon the state, management and condition of every Hospital or other Benevolent institution, supported in part by grant of public money, and in case of refusal of admission into the same for the purpose of inspection, shall forthwith report such refusal to the Governor and the circumstances attending the same. 20 V. c. 28, s. 35. 30

To visit the Beauport Asylum as long as it is a Provincial Institution. **29.** The Inspectors shall so long as any appropriation of money may be made by the Legislature in aid of the Lunatic Asylum at Beauport near Quebec, visit such Asylum as often as may be determined upon by them or be ordered by the Governor, and at least twice in the year, and shall in their Annual 40

Annual Report fully report on the State and Management of such Asylum and on the condition of its inmates. 20 V. c. 28, s. 18.

30. The Inspectors, either singly, or together whenever required to do so by the Governor, and at least once in the year, shall visit, examine and report to him upon the state and management of every Private Lunatic Asylum established under the provisions of the Act respecting *Private Lunatic Asylums*, and upon the condition of its inmates; and the Governor, after the receipt of any Report of the Inspectors, may by an Instrument under his hand and seal, suspend or revoke the license granted under the said Act. 20 V. c. 28, s. 32.

Inspectors to visit, &c., yearly every Private Lunatic Asylum, &c.

31. In case any other Lunatic Asylum or Asylums, or of any Asylum for Idiots or for the Deaf, Dumb or Blind, be after this Act takes effect, erected at the public expense, the Governor shall appoint to each of them a Medical Superintendent and other officers, with the same powers and duties as those possessed and to be performed by similar Officers of the Provincial Lunatic Asylum at Toronto; and the Inspectors appointed under this Act shall have and perform the same powers and duties with respect to such Asylums respectively as are vested in them by virtue of this Act with respect to the said Lunatic Asylum at Toronto. 20 V. c. 28, s. 33.

Inspection of other Asylums and appointment of proper officers.

5. ANNUAL REPORTS.

32. The said Inspectors shall make an Annual Report to the Governor on or before the tenth day of February in each year, which Report shall, with respect to the Provincial Penitentiary and the Reformatory Prisons, comprise all the particulars and documents required by the tenth sub-section of the eleventh section of this Act, and shall also contain a full and accurate report on the state, condition and management of the several Asylums, Hospitals, Gaols and Institutions under their inspection, and inspected by them, or any of them, during the preceding year, together with such suggestions for the improvement of the same as they may deem necessary or expedient. 20 V. c. 28, s. 36.

Inspectors to report yearly to the Governor.

33. All actions, suits and prosecutions against any person or persons for any thing done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and shall be commenced within six months after the fact committed and not otherwise or afterwards. 20 V. c. 28, s. 37.

Limitation of suits.

34. From and after the appointment of Inspectors under this Act, the Medical Superintendent and Bursar of the Provincial Lunatic Asylum at Toronto, shall make to the said Inspectors the Annual Report previously required to be made by them respectively to the Governor and Legislature; And such Reports shall

When the Medical Superintendent and Bursar of the L. A. Toronto, to report to the Inspectors.

shall be transmitted by the said Inspectors to the Governor, together with the Annual Report of such Inspectors. 20 V. c. 28, s. 17.

Mulled in French



35. ~~The Inspectors of the Penitentiary and of any other Prison, and the Commissioners of the Lunatic Asylum at Toronto, and of any other Asylum, in office, when this Act takes effect, shall so continue until superseded or otherwise removed.~~ 5

36. In the construction of this Act, the word "County" shall be held to mean "County or Union of Counties." 20 V. c. 28, s. 38. 10

37. In citing, pleading or otherwise referring to this Act, it shall in all cases be sufficient to use the expression "The Prison and Asylum Inspection Act," or words of similar import. 20 V. c. 28, s. 39.

* NOTE.—This section is framed in the absence of appointment of Inspectors under 20 V. c. 28.

C A P . C X I .

An Act respecting the Provincial Penitentiary of Canada.

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

THE PRISON AND ITS APPURTENANCES.

- 1.** The Penitentiary erected near the City of Kingston, in the County of Frontenac, shall be called "the Provincial Penitentiary of Canada." 4, 5 V. c. 69, s. 1. Name.
- 2.** The said Penitentiary shall be held to include all the ground and premises within the walls surrounding the establishment, and also the wharf and vacant ground outside the south and west walls within the pickets erected to inclose the same. Boundaries.
- 3.** The property of the said Penitentiary, and all the property therein or thereto belonging, shall remain vested in Her Majesty, but the Warden of the Penitentiary and his Successors in Office shall have the custody thereof under the terms and conditions of this Act, and for the uses herein mentioned ; and the said Penitentiary, and all the property therein or thereto belonging, shall be exempt from all taxes. 14, 15 V. c. 2, s. 3. The property to be vested in Her Majesty.
- 4.** The Warden shall not permit any convict to go beyond the boundaries of the Penitentiary at any time or for any purpose. Prisoners not allowed beyond the boundaries.
- 5.** When it is necessary to employ convicts on the wharf or vacant space outside the walls of the Penitentiary, it shall be done only under the strictest supervision and care of officers appointed to that duty. Without the strictest supervision in admissible cases.
- 6.** In case the Inspectors of the said Penitentiary be at any time of opinion that it will be safe and advisable and for the public interest to employ a portion of the convicts on any specific work or occupation outside the limits, but upon the ground or lot attached to the Penitentiary, they may instruct the Warden so to employ a specified number of convicts at such specified labour, and no other ; but they shall first make written rules for their regulation and supervision while so employed. 14, 15 V. c. 2, s. 6. When prisoners may be employed outside the walls.

CONVICTS

CONVICTS TO BE RECEIVED THEREIN.

The Warden shall receive all convicts whose sentences are duly certified. 7. The Warden shall receive into the Penitentiary all convicts legally certified to him as sentenced to imprisonment in the Penitentiary, and shall there detain them, together with those already lawfully imprisoned therein until the term for which they have been respectively sentenced be completed, or until they be otherwise discharged in due course of law. 14, 15 V. c. 2, s. 4. 5

Convicts sentenced to the Penitentiary in L. C. to be imprisoned in the Provincial Penitentiary and powers and duties of the Sheriff in the conveyance of prisoners thereto. 8. Whenever a convict is sentenced by any Court in Lower Canada, to be imprisoned in the Penitentiary, the sentence shall be understood to mean the said Penitentiary, and the Sheriff having the lawful custody of the convict at the time of the conviction, shall upon an order from the Court before which the conviction has taken place, cause such convict to be conveyed by such persons as the Sheriff appoints and empowers for that purpose, to the said Penitentiary, and shall cause him to be delivered into the custody of the Warden thereof, together with a certified copy of the sentence passed upon such convict, which shall for that purpose be furnished to the said Sheriff by the proper Officer with the order of the Court as aforesaid. 4, 5 V. c. 69, s. 1. 10 15 20

The Warden shall receive convicts so sentenced. 9. The Warden shall receive such convict into the said Penitentiary, and shall safely keep him therein subject to the discipline thereof, until the sentence be executed or the convict be discharged in due course of Law.

His certificate shall be a discharge to the Sheriff. 10. The certificate of the Warden or assistant Warden of the delivery of such convict shall be a sufficient discharge and voucher to the said Sheriff. 25

Expenses incurred by Sheriff in conveying convicts to the Penitentiary to be allowed him. 11. Such Sheriff's lawful and reasonable expenses incurred in the conveyance of such convict to the Penitentiary aforesaid, shall be allowed him in his accounts with the Provincial Government, in the same manner and under the same provisions as other expenses by him lawfully incurred, and payable out of the public moneys of the Province. 4, 5 V. c. 69, s. 1. 30

AUTHORITY OF SHERIFFS IN CONVEYING CONVICTS.

Powers of the persons employed by the Sheriff to convey convicts to the Penitentiary. 12. The person appointed and empowered by any Sheriff to convey any convict to the said Penitentiary, shall, until the convict has been delivered to the Warden thereof, have in all Territorial Divisions or parts of this Province through which it may be necessary to convey such convict, the same authority and power over and with regard to such convict, and to command the assistance of any persons in preventing his escape, or in retaking him in case of an escape, as the Sheriff would himself have 35 40

have if lawfully conveying such convict from one part to another of the Territorial Division in which he was convicted. 4, 5 V. c. 69, s. 2.

13. In any case wherein sentence of death has been passed upon any person by any Court of this Province, and Her Majesty's Royal pardon is extended to such person, on condition that he shall be imprisoned in the Penitentiary for life, or for any term of years in the pardon mentioned, such pardon shall have the same effect as the judgment of a Competent Court legally sentencing such person to such imprisonment for life or other term would have. 14, 15 V. c. 2, s. 4.

As to commutation of sentence of death.

14. On the production to him of such pardon, or a copy thereof certified by the Provincial Secretary, the said Warden shall receive and deal with the said person as if he had been sentenced to such imprisonment for life or other term, and such sentence had been duly certified to the said Warden. 14, 15 V. c. 2, s. 4.

On what certificate the Warden to receive convicts whose sentences have been commuted.

TREATMENT OF CONVICTS.

15. Every convict in the said Penitentiary shall, during the term of his confinement, be clothed at the expense of the Penitentiary in garments of coarse but comfortable materials; and shall be fed on a sufficient quantity of wholesome food; and shall be kept constantly employed at hard labour, for the benefit of the Penitentiary, during the day time of every day in the year, except Sundays, Good Friday and Christmas-day, in such manner as the Warden deems most advantageous for the public consistently with the welfare of each convict, and with the other provisions of this Act; always excepting such convicts confined in solitude for misconduct while in the Penitentiary, or incapable of labouring by reason of sickness or bodily infirmity. 14, 15 V. c. 2, s. 5.

How convicts shall be clothed, fed and employed.

16. No convict of the Roman Catholic persuasion shall be compelled to labour on any of the following obligatory Holidays of the Church, that is to say: Circumcision, Epiphany, Annunciation, Ascension, Corpus Christi, Saint Peter and Saint Paul, All Saints and Conception. 14, 15 V. c. 2, s. 5.

Roman Catholics exempted from work on obligatory holidays.

17. The Warden shall keep each prisoner singly in a cell at night and during the day when unemployed, except in cases of sickness. 14, 15 V. c. 2, s. 5.

Confinement at night.

18. When the convicts are congregated in the workshops and other places of labour, the Warden shall keep them as far separate as possible, and allow as little intercourse among them as the nature of their several employments will admit, and he shall forbid all conversation not absolutely required in carrying on the work being done at the moment. 14, 15 V. c. 2, s. 5.

When convicts congregated in workshops what intercourse admissible.

OFFICERS.

Inspectors,
Warden, Chaplains and
Clerk.

19. Besides the said Inspectors, the Officers of the said Provincial Penitentiary, shall consist of one Warden (hereinbefore named,) one Protestant Chaplain, one Roman Catholic Chaplain, one Physician, one Deputy-Warden, and one Clerk; all of whom shall be appointed by the Governor, and hold their offices during pleasure. 5

Other officers,
Overseers,
Guards, &c.

20. There shall also be the following Officers of the Penitentiary, viz: one School-master, one Store-keeper, one Clerk of the Kitchen, one Matron, one Assistant Matron, and the requisite number of Overseers, Keepers and Guards; and the said School-master, Store-keeper, Clerk of the Kitchen, Matron, Assistant Matron and Overseers, shall be appointed by the Inspectors, and the Keepers and Guards by the Warden with the consent in writing of one of the Inspectors; and any of the said Officers appointed by the Inspectors or by the Warden with the consent of an Inspector, may be summarily removed by the Warden with the consent in writing of any one Inspector, or by the Board of Inspectors, without further charge than that of inefficiency in the discharge of his duty, in the opinion of the said Warden and an Inspector, or in that of the Board of Inspectors. 14, 15 V. c. 2, s. 13. 10 15 20

WARDEN.

All accounts
to be in the
name of the
Warden.

21. All dealings and transactions on account of the said Penitentiary, and all purchases and contracts necessary for maintaining and carrying on the establishment, shall, subject to the provisions of this Act, be entered into, conducted and executed by and in the name of the Warden. 25

The Warden
may contract,
sue and be
sued, &c.

22. The Warden may enter into contracts and may sue and be sued in all Courts and places, and in all matters concerning the said Penitentiary or the property real or personal thereto belonging, by his name of office of "The Warden of the Provincial Penitentiary," and by that name the Warden may sue for and recover all sums of money due from any person to the Crown, on account of the said Penitentiary, and by that name he and his Successors in office shall have perpetual succession. 14, 15 V. c. 2, s. 8. 30 35

The Warden
to be the Chief
Executive
Officer.

23. The Warden shall be the Chief Executive Officer of the Penitentiary, and as such shall have the entire executive control and management of all its concerns, subject to the rules, regulations and written instructions, from time to time duly made by the Board of Inspectors; and in all cases not provided for by such rules, regulations or written instructions, during the intermissions of the Board meetings, the Warden shall act in such manner as he deems most advisable; and he shall be 40

be held responsible for the faithful and efficient executive administration of every department of the Prison. 14, 15 V. c. 2, s. 15.

24. The Warden of the said Penitentiary is hereby empowered summarily to suspend for misconduct the School-master, the Store-keeper, the Clerk of the Kitchen, the Matron, the Assistant Matron, and any Overseer, Keeper or Guard in the Penitentiary until he has made one of the Inspectors acquainted with the facts of such alleged misconduct, and obtained his advice and consent to act therein, or has submitted the matter to the Board of Inspectors. 14, 15 V. c. 2, s. 14, *latter part*.

Warden may suspend certain sub-officers.

Omitted in French

25. The Warden shall by virtue of his office of Warden, without any property qualification, be a Justice of the Peace for each and every district, county and city in the Province of Canada. 14, 15 V. c. 2, s. 15.

The Warden to be a J. P. throughout the Province.

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26. It shall be the duty of the Warden—

Warden's duties.

Firstly. To reside in the Penitentiary, to keep his household entirely isolated from the prisoners, and forbid communication in any shape between them, and to visit every apartment in the prison, and see every prisoner under his care, at least once each day.

To reside in the Penitentiary.

Secondly. To have in charge the health, conduct and safe keeping of the prisoners; to examine into and seek the success of the religious, moral and industrial appliances used for the reformation of the convicts; and to exercise over the whole establishment a close supervision and personal direction.

To have charge of the prisoners and superintend the whole establishment.

Thirdly. To designate the employment of each convict, having reference to the capacity and past pursuits and habits of such convict.

To fix the employment of each convict.

Fourthly. To see that justice, kindness and morality prevail in the administration of every department of the prison; that no gaming or profane or indecorous language is indulged in by any Officer or convict; that no unnecessary severity is practised; and that sick convicts have proper medical attendance, and are supplied with such food as may be directed by the Physician.

To see to the benign treatment of all prisoners.

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Fifthly. To give the necessary directions to the Officers under him, and to examine whether they have been careful and diligent in the discharge of their several duties.

To see that the other officers do their duty.

Sixthly. To make all purchases, sales and contracts, under the advice and instructions of the Board of inspectors, and to superintend the industrial pursuits of the prison.

To make purchases, sales and contracts.

To keep books,
records and
accounts.

Seventhly. 1. To keep fully, faithfully, correctly and regularly all such books, records and accounts of the financial and other transactions of the prison as the Inspectors from time to time direct; and 2. Especially to keep therein a regular and correct account of all moneys received by him from any source whatever by virtue of his Office, including all moneys taken from convicts or received as the proceeds of property taken from them; and 3. Of all sums paid by him, and the persons to whom and the purposes for which the same were paid; also 4. To make out monthly, and deliver to the Board of Inspectors at each monthly visit, a return of all moneys received by him on account of the Penitentiary during the preceding month, specifying from whom each sum was received, and to whom paid and on what account, and stating also the balance in his hands at the time of rendering such account; 5. To which return an affidavit by the Warden and Clerk of the Penitentiary shall be appended and sworn to before the Inspector for that monthly visit, stating that such Return is correct and true in every respect to the best of their knowledge and belief. 6. Also to cause such accounts to be kept in the workshops and other departments of labour as will shew where work is doing on account and at the risk of the public, the amount of materials consumed, and the quantity of work done by each convict; and when work is being done under Contractors, such accounts as will shew the amount of labour performed by each convict; and 7. The said accounts to be closed on a certain day of each week, for the purpose of ascertaining the industry of each convict, and detecting any negligence or misconduct therein.

To keep a
daily journal.

Eighthly. To keep a daily Journal of the proceedings of the Prison, in which he shall enter 1. All remarkable occurrences, noting therein especially any infraction of the Rules, or any negligence or misconduct on the part of any Officer of the Prison, as reported to him or coming within his own knowledge; 2. Any escape or attempt to escape made by any convict; 3. Any well founded complaint of bad or insufficient food, want of clothing or cruel or unjust treatment made by any convict; and 4. Any difficulty he may find in carrying out the Rules of the Prison, or alterations or additions to the same which may suggest themselves by daily experience. And the said Journal shall at all times be open to inspection by the Inspectors or any of them, and be formally laid before the Board of Inspectors at every meeting.

To admit the
Inspectors at
all times and
to report to
them as re-
quired by this
Act.

Ninthly. To admit the Inspectors at all times to every part of the Prison, and to render them every facility and assistance in the discharge of their duties; also to make to the said Inspectors all the Financial and other Reports, Returns and Inventories named in this Act, and any other Reports and Returns which the said Inspectors may, in writing, request to be prepared; and also to exact from the other Officers of the Prison

Prison all Reports respecting their several departments, which the Inspectors request.

- Tenthly.* To receive all persons legally certified to him as legally sentenced to imprisonment in the Penitentiary, and to
 5 keep a register of such convicts, in which he shall enter, immediately on his or her admission, the name of each convict, and under appropriate columns, the date of his or her conviction, and where born, his or her age, previous occupation, complexion, stature, crime and term of sentence; also the Court
 10 before which he or she was convicted, the County, City or District from which sent, the number of previous convictions, and when discharged and how discharged; and the Warden shall be furnished by the person delivering any convict to him with a certified copy of the sentence, and the Warden shall give to such
 15 person a certificate of the delivery of such convict; and immediately on the admission of each convict, the Warden shall make an inventory of the clothes and other property on the person of the convict at his reception, and shall enter the same in a Book to be kept for that purpose; and the said clothing and other pro-
 20 perty shall be preserved, as well as possible, during the imprisonment of the convict, and be restored on his or her discharge. It shall also be the duty of the Warden to read to each convict on his admission the laws of the Prison in regard to escapes and attempts to escape, and as to rebellious or
 25 disorderly conduct.

To receive and keep a register of all convicts certified to him.

Contents of register.

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- Eleventhly.* To be present at least three times in each week in the Dining-hall while the convicts are at breakfast and dinner, and as often at the distribution of the supper rations, with the view of examining the food and ensuring that it is
 30 good and sufficient and properly cooked; he shall also superintend or cause to be superintended the convicts when attending Divine Service whenever it is held in either of the Chapels of the Prison, and when Service is proceeding in both Chapels simultaneously, the Warden shall be in one and the
 35 Deputy Warden in the other. He shall also, before retiring for the night, pass through the prison every night and satisfy himself that all is safe, and that the guard for the night is set and properly discharging the duty. 14, 15 V. c. 2, s. 15.

To inspect breakfast and dinner messes. To be present when the convicts attend Divine Service.

To make the rounds of the prison before retiring every night.

DEPUTY WARDEN.

- 27.** The Deputy Warden of the Penitentiary shall be the
 40 Principal Assistant and representative in his absence, not exceeding two days, of the Warden, and during such limited absence shall exercise all the powers and fulfil all the duties of the said Warden, as far as they relate to the discipline of the Prison and the safe keeping and management of the
 45 prisoners, and the control of the subordinate officers; and in the event of such absence the Warden shall make an entry of the fact in his daily Journal, and shall notify the Deputy Warden

Deputy Warden to be Assistant to the Warden.

Warden in writing of his intended absence, and that he is in full charge of the establishment.

Duties of the Deputy. **28.** And it shall be the duty of the Deputy Warden :

To be present when prison opened and closed, and at meal times, &c. *Firstly.* To be present always at the opening and closing of the Prison, and at all meal times and Religious Services ; also to be present at all times in the absence of the Warden from the Prison, night or day, or for a longer or shorter period. 5

To aid in the duties of the prison under the Warden. *Secondly.* To have a constant care and superintendence, under the direction of the Warden, of the internal affairs of the Prison ; to see that every subordinate officer performs his appropriate duties, and that order, industry and cleanliness are maintained throughout the establishment. Also, especially to enforce and maintain the Police and Discipline of the Prison, and to see that the Rules and Regulations of the Institution and the directions of the Warden are obeyed. 10 15

To visit the shops, yards, &c., frequently. *Thirdly.* Frequently during the day to visit the Shops, Yards, Hospitals, Cells and other apartments of the Prison, taking every precaution for the security of the Prison and prisoners, seeing that the Overseers keep their men diligently employed during the whole time they are in the workshops, and that the guard are vigilant and attentive to their duties ; and reporting to the Warden, in writing, strictly and promptly every neglect of duty, or impropriety or misconduct on the party of any officer. 20

To attend to the clothing and rations, &c. *Fourthly.* To attend to the clothing of the convicts, and see that it is whole and in order, and properly changed. To see that the rations are such as are allowed and required to be delivered to the convicts, and that they are properly cooked and served. To ascertain, morning and night, whether any convict is missing before he dismisses the officers or gives the safety signal. 14, 15 V. c. 2, s. 16. 25 30

And to see that no convicts are missing.

CHAPLAIN.

The Chaplain and his duties. **29.** There shall be two Chaplains of the Penitentiary ; one to be an ordained Clergyman of any of the Religious Denominations of Protestant Christians recognized by the laws of this Province, and who shall have the spiritual charge and care of all the convicts in the said Penitentiary, professing to be members or adherents of any of the said denominations ; and the other to be a Priest in Holy Orders of the Church of Rome, and to have the charge and care of all the convicts professing to be members or adherents to that denomination. And the duties of each of the said Chaplains shall be— 14, 15 V. c. 2, s. 17. 35 40

Firstly. To devote his whole time and attention to the religious instruction and moral improvement of the prisoners.

Secondly.

Secondly. To maintain public religious services morning and evening with the convicts under his charge, at the opening and closing of the Prison, and at other times as the rules of the Prison may direct; to celebrate Divine Service twice every Sunday; and to have the care and management of a Sabbath School for the religious instruction of the convicts.

Thirdly. To see that every convict under his charge is furnished with a Bible; the Protestant convicts with the authorized English edition without note or comment, and the Roman Catholic convicts with that version which the Chaplain of their Church designates.

Fourthly. To be diligent in seeing and conversing with the convicts at all reasonable times in the cells, or in his private room, or in the Hospital, and in administering to them such instructions and exhortations as may be calculated to promote their spiritual welfare, moral reformation and due subordination; and for this purpose, he shall at all times, have access to the convicts under his charge, subject to the rules of the Prison made for that end.

Fifthly. To guard carefully against encouraging the complaints of convicts as to their officers or treatment in the Penitentiary, and against communicating to them any information or intelligence other than relating to their duty, without first advising with the Warden thereupon.

Sixthly. To take charge of a Library for the use of the convicts under his care; to select the new books purchased from time to time, and to take especial care that no book of an improper character be circulated among the convicts.

Seventhly. To visit the sick among the convicts under his charge daily.

Eighthly. To report annually to the Inspectors, or oftener when called on by them, relative to the religious and moral conduct of the convicts, the routine of duty he has followed through the year, and the fruits of his labour; with any other information or returns which the said Inspectors may desire.

Ninthly. To keep a register containing, under separate heads, the history, so far as he can learn it, of each convict under his charge, the extent of each convict's education, his habits and disposition, and the crime of which he has been convicted; to register and from time to time to add thereto remarks as to the conversations he has had with such convict, and his progress, morally and intellectually. To keep such records as will enable him to report annually the number of convicts received who could or could not read, and who could or could not write, and of those who could read as well

well as write ; also the number partially educated, classically educated, temperate or intemperate, married or unmarried, and such other points of useful statistical information as may be suggested to him by the Inspectors.

PHYSICIAN.

The Physician and his duties. **30.** The Physician of the Penitentiary shall have full control over and charge of the Hospital, subject to the rules of the Prison, and shall attend at all necessary times to the wants of the sick convicts whether in their cells or in the hospital. And it shall be his duty-- 14, 15 V. c. 2, s. 18. 5

Firstly. To attend at the Penitentiary once every day, at a stated hour to be prescribed by the Inspectors, and in cases of emergency to repair thereto as often as may be necessary ; and he shall also attend at the Penitentiary whenever he may be required so to do by the Warden, to the exclusion of all private practice. 15

Secondly. To keep a Register of all the sick convicts placed under his care, stating the diseases with which they are or were afflicted, distinguishing those confined in Hospital or otherwise, and the Treatment adopted ; also a daily Prescription-Book, and also a Register of the deceased convicts, stating their names, ages, time and cause of death, and all other circumstances which he may deem necessary, or which the Inspectors may desire ; and the said Registers shall always remain at the Penitentiary, and be open for inspection. 20

Thirdly. To exercise a general surveillance over the cleanliness and ventilation of the Prison and the diet of the convicts, and to suggest to the Inspectors or Warden measures for the remedy of evils which may appear to him to exist. 25

Fourthly. To make a yearly Report, or oftener if required, to the Inspectors, in which all the information contained in his daily Registers shall be condensed, and any other information given which the Inspectors may require. 30

Fifthly. To examine convicts at their admission into the Prison, and note their bodily defects, for the direction of the Warden in assigning them employment. 35

CLERK.

The Clerk and his duties. **31.** It shall be the duty of the Clerk of the Penitentiary, under the instructions of the Warden-- 14, 15 V. c. 2, s. 19.

Firstly. To keep all such Books, Records and Accounts as the Inspectors may direct to be kept in relation to the affairs of the Penitentiary. 40

Secondly.

Secondly. To attend constantly, during business hours, at the Penitentiary, except when performing any necessary duties of his office elsewhere.

Thirdly. To take bills for all supplies and materials for the
5 Prison purchased by the Warden, and for all services rendered to the establishment, and to enter the same in the Books when ascertained and duly certified (as the Inspectors may direct) to be correct.

Fourthly. To act as Clerk to the Board of Inspectors.

10 *Fifthly.* To pay all debts due by the Institution, under the special order, as to each debt, of the Warden, and to take formal receipts in duplicate for the same; all payments to be made by Cheque on the Bank bearing the signatures of the Warden and Clerk.

SCHOOLMASTER.

15 **32.** The School-master of the Penitentiary shall be under the surveillance of the Chaplains, and he shall teach such convicts as the Warden may select, reading, writing, and such other branches of secular knowledge, and at such times and hours, and under such regulations as the Inspectors may from time to
20 time designate; And he shall give his whole time and attention to his said duties, and shall assist in the Sunday-school if the chaplains desire it. 14, 15 V. c. 2, s. 20.

The School-master and his duties.

STOREKEEPER.

33. The Store-keeper shall receive all goods, materials and stores, excepting provisions, ordered for the use of the Peniten-
25 tiary by the Warden, or under contract, and shall weigh or measure the same and inspect the quality, and compare the same with the Bills of Parcels, which shall in every case be demanded and received with the articles as they come in for the use of the Penitentiary; and the said Store-keeper shall certify
30 distinctly on such Bills of Parcels whether the items charged are correct or not, and if not, wherein they are not, and make any other necessary remarks on the same which he may deem necessary to a fair settlement of the Bill. 14, 15 V. c. 2, s. 21.

The Store-keeper to receive, inspect and weigh all goods, &c.

34. The Store-keeper shall have the charge and care of all
35 such Stores, Materials and Goods, and he shall keep a Stock-book in which he shall enter, under separate heads, all such Stores, Materials and Goods, as received, and the manner and date of their expenditure as expended, so that it can be seen at once how much of any article is on hand, and the said Store-
40 keeper shall not expend any such Stores without a regular requisition from the proper Officer as the Board of Inspectors may direct;

To have the care of all stores, &c.

To have care
of the bed-
ding, &c.

35. The said Store-keeper shall in like manner have the charge of all bedding, clothing, tools, implements and machinery made or used in the Penitentiary, and shall keep a strict check on the receipt, expenditure and employment of the same, according to the directions of the Board of Inspectors.

5 *e*

To assist the
Clerk when at
leisure.

36. The said Store-keeper, when not engaged in the more immediate duties of his office, shall aid and assist the Clerk in keeping the Books and accounts of the Penitentiary. 14, 15 V. c. 2, s. 21.

CLERK OF THE KITCHEN.

Clerk of the
kitchen and
his duties.

37. It shall be the duty of the Clerk of the Kitchen, 10 under the instructions of the Warden or Deputy Warden--

1. To have particular charge of the victualling department ;
2. To receive the provisions if sound and in good order and according to contract ;
3. To examine and weigh or measure the same, compare the 15 same with the bills of parcels to be invariably demanded and received with all articles so coming in, and to certify distinctly upon such bills whether the charges are correct, and if not, wherein they are not ;
4. To keep a book of record of all such provisions as re- 20 ceived, and of the daily expenditure of each article, and shewing the quantities of each at any one time on hand ;
5. To keep a list of the convicts each day in the Peniten- 25 tiary, showing how many are on full diet, how many on the sick list, and how many under deprivation of meals as punish- ment on any one day ;
6. According to such list, accurately to weigh out and expend the stores necessary for each meal's consumption, according to the rules of the prison, and no more, and at the time, to enter the same in the provision stock-book, as expended ; 30
7. To have charge of the Cooking and division of the rations for the convicts, under the directions of the Warden or Deputy Warden thereon ;
8. To have charge of the washing, mending and cleaning 35 of the clothing and bedding of the convicts, and of the cleaning of the buildings, and he shall be responsible for the manner in which the said duties are performed ;
9. The Clerk of the Kitchen may, in the discretion of the Inspectors, be required to take his share of the routine duty of the prison. 14, 15 V. c. 2, s. 22. 40

OVERSEERS.

OVERSEERS.

38. For every twenty-five convicts in each art, trade, or other industrial pursuit conducted in the Prison on behalf and at the risk of the Penitentiary, there shall be a Master Tradesman well skilled in such trade or other pursuit, to be known as an "Overseer," whose duty it shall be to instruct the convicts in the business so carried on, and to act as a Foreman and Master Workman, and to direct the labour of his particular department to the greatest public advantage. The Overseers.

39. It shall be the duty of each respective Overseer : **14, 15** And their duties.
10 V. c. 2; s. 23.

1. To keep an accurate account of all materials expended by him, and of the labour performed in gross, and on each article manufactured, so as to shew the labour performed by each convict weekly, and the precise cost of each article manufactured ; **15**

2. To maintain strict silence in his gang, to insist on the performance of a reasonable quantity of work by each convict, to maintain subordination, and duly to report to the Warden every infraction of the rules of the Prison by any convict ;

3. To remain with his gang at all times during working hours, unless specially relieved by the Warden or Deputy Warden ; **20**

4. To aid in conducting the convicts to and from their cells, and to and from their meals ; and

5. To perform their share, with the Keepers and Guards, as the rules and regulations may direct, of the routine duty of the Prison, and to aid in carrying out the discipline thereof. **14, 16-V. c. 2, s. 23.**

KEEPERS.

40. For every fifty convicts, and for every gang containing a smaller number than fifty convicts employed under any contract in the manufacturing of articles for any party or parties, there shall be an Officer to be known as a "Keeper" who shall have the charge and management of such gang, as far as regards the maintenance of discipline, and the due observance of the rules and regulations, and the proper application of the convicts to the work in which they are employed ; and it shall be the duty of each respective keeper-- The Keepers.

1. To see that silence is maintained, and that a sufficient amount of work is done and done well by each convict, and that a proper account of the same is kept ; And their duties.

2. To see that the rules of the Prison are strictly observed by the Contractors, their Agents and Foremen, and to report all infractions of the same to the Warden ;

3. To see that the work, if any, done for the Penitentiary under contractors by the convicts in their charge, is good and sufficient work according to the contract ;

4. To remain with his gang at all times during working hours, unless specially relieved by the Warden or Deputy Warden ; and

5. To aid in conducting the convicts to and from their cells, and to and from their meals, and to perform his share with the Overseers and Guards, of the routine duty of the Prison, as the rules and regulations may direct, and to aid in carrying out the discipline thereof. 14, 15 V. c. 2, s. 24.

GUARDS.

Guardsmen.

41. There shall be in the Penitentiary, such number of Guards, not exceeding thirty, as the Inspectors may from time to time find needful and direct to be employed ; and the said Guards shall be employed in safe keeping of the Prisoners, and in the maintenance of order and discipline. 14, 15 V. c. 2, s. 25.

SALARIES.

Salaries.

42. The Officers of the Penitentiary shall receive the under-mentioned sums annually, or in proportion thereof for such portion of any year as they may be so employed, in full compensation for their services in their respective offices, that is to say :

1. The Inspectors, a sum not exceeding the sum of ~~Four Hundred Pounds~~ each ;

2. The Warden, a sum not exceeding ~~Five Hundred Pounds~~, with a free house and necessary fuel for domestic purposes ;

3. The Chaplains, a sum not exceeding ~~Two Hundred and Fifty Pounds~~ each ;

4. The Physician, a sum not exceeding ~~Two Hundred Pounds~~ ;

5. The Deputy Warden, a sum not exceeding ~~Two Hundred Pounds~~ ;

6. The Clerk, a sum not exceeding ~~One Hundred and Seventy five Pounds~~ ;

7.

\$16 00

\$2 000

\$10 000

\$800

\$800

\$700

7. The School-master, a sum not exceeding ~~One Hundred and Fifty Pounds~~;

\$600

8. The Store-Keeper, a sum not exceeding ~~One Hundred and Twenty-five Pounds~~;

\$800

5 9. The Clerk of the Kitchen, a sum not exceeding ~~One Hundred and Twenty-five Pounds~~;

\$500

10. The Matron, a sum not exceeding ~~Seventy-five Pounds~~;

\$300

11. The Assistant-Matron, a sum not exceeding ~~Fifty Pounds~~;

\$200

10 12. The Overseers, a sum not exceeding ~~One Hundred and Twelve Pounds Ten Shillings~~ each;

\$450

13. The Keepers, a sum not exceeding ~~Ninety Pounds~~ each;

\$360

14. The Guards, a sum not exceeding ~~Sixty-five Pounds~~ each.

\$260

PROHIBITIONS.

15 **43.** No person employed in any of the said Offices, excepting the Inspectors and Physician, shall be allowed to carry on any trade or calling of profit or emolument other than the said office in the Penitentiary. 14, 15 V. c. 2, s. 26.

Except, &c., Officers not to be engaged in other employments.

44. No officer of the said Penitentiary shall—

Other prohibitions.

20 1. Have any further emolument, fee, perquisite or advantage from his or her situation than is herein stated; nor

2. Receive, buy from, or sell to or for any convict any article or any thing whatsoever; nor

25 3. Take or receive for his or her own use, or for that of any other person, any fee, gratuity or emolument from any convict or visitor or other person connected with the said Penitentiary; nor

4. Be directly or indirectly interested in any contract with, purchase by, or sale to the said Penitentiary; nor

30 5. Employ any convict or convicts in working for his, the said Officer's, own personal benefit or accommodation.

EXEMPTIONS.

35 **45.** All the Officers of the Penitentiary shall be exempted, during their continuance in office, from serving as Jurymen, Militiamen, or as Municipal or Parish Officers. 14, 15 V. c. 2, s. 26.

Officers exempted from serving in other capacities.

SECURITIES

SECURITIES AND OATH OF OFFICE.

Securities and
oath of office.

46. The Warden and Clerk shall severally execute bonds to Her Majesty with sufficient sureties, that is to say, the Warden in the penal sum of ~~Two Thousand Pounds~~, and the Clerk in the penal sum of ~~One Thousand Pounds~~, conditioned for the faithful performance of the duties of their respective offices according to law, which bonds shall be filed in the office of the Provincial Secretary; and the Inspectors may in like manner demand bonds with sureties from the Store-Keeper in the penal sum of ~~Two Hundred and Fifty Pounds~~, and from the Clerk of the Kitchen in a like amount, and the said Warden, and all other Officers of the Penitentiary, shall severally take and subscribe before either of the said Inspectors the following oath of office :

" I (A. B.) do promise and swear that I will faithfully, diligently and justly serve and perform the office and duties of of the Provincial Penitentiary, according to the best of my abilities; I will carefully observe all the regulations of the Prison, and promptly report to the Warden any infractions of them by others. So help me God ;" and such oath shall be filed in the office of the Clerk of the said Penitentiary. 14, 15 V. c. 2, s. 27.

ARCHITECT.

The Board of
Inspectors
may employ
an architect
and master
builder.

47. The Board of Inspectors may employ some competent person as Architect and Master-Builder, who shall, under the orders of the said Inspectors, and under the surveillance of the Warden, superintend the erection of the several buildings and the other works necessary for the completion of the said Penitentiary, and for whose services the said Inspectors are hereby empowered to pay such remuneration as they may consider just and reasonable. 14, 15 V. c. 2, s. 28.

Inspectors to
procure plans
and estimates
of buildings to
be erected.

48. The said Inspectors of the Penitentiary shall, as soon as practicable, cause to be prepared, subject to the approval of the Governor General in Council, a plan and estimate of dwelling houses to be erected on the Penitentiary lot for the accommodation and suitable to the relative positions of the several Officers of the Penitentiary; and when so prepared and approved, the said plans shall be carried out as speedily as practicable, consistent with keeping the annual grant from the public Exchequer towards the support of the Penitentiary within the sum of ~~Six Thousand Pounds~~ in one year; and when completed, the said Inspectors shall have power to require the residence of the several Officers in the dwellings so erected, and to deduct from the salaries monthly, the reasonable rent of the dwellings so occupied. 14, 15 V. c. 2, s. 29.

VISITORS.

\$ 8000
\$ 4000
\$ 1000

New line

9

\$ 24000

VISITORS.

49. The Governor may appoint three persons to act as a Board of Visitors of the Penitentiary ; and the said Visitors, or any two of them, shall have admittance into the Prison at any time during business hours on one day of each week, and shall have full opportunity of satisfying themselves that the discipline is maintained and humanely administered, and that no unnecessary suffering and no injustice are practised in the Prison ; and the said Visitors, or any two of them, shall be at liberty to speak to any of the convicts ; and in the event of their observing any irregularity or injustice prejudicial to the higher objects of the Institution, they shall in their discretion represent the same to the Warden, or to the Inspectors, or to the Provincial Secretary, as the nature of the case may render expedient ; and the said Visitors may grant orders for the admission of persons to view the Penitentiary, under such rules as the Inspectors may make ; but the said Visitors shall have no executive power in the prison, and no supervision further than to see that the reformatory objects of the Institution are carried out, and that the convicts are humanely and justly treated. 14, 15 V. c. 2, s. 30.

The Governor may appoint three visitors.

EXPENSES.

50. The sums necessary to pay the salaries and other expenses of the Penitentiary shall be paid to the Warden, by the Receiver General of the Province, out of any unappropriated moneys in his hands, forming part of the General Revenue Fund thereof, in discharge of such Warrant or Warrants as may be issued for that purpose by the Governor General, and such sums shall be duly accounted for by the Warden as he may be directed. 14, 15 V. c. 2, s. 31.

Receiver General to pay moneys to the Warden upon the warrant of the Governor:

PROVISIONS.

51. The said Penitentiary shall be supplied with provisions by contract, which contract, unless the Inspectors otherwise direct, shall be made by the Warden annually, with such persons as may be willing to accept the lowest terms, at a fixed price per day for each ration furnished, the articles of food and the quantities of each kind being prescribed by the Inspectors, and inserted in the contract ; and for the purpose of ascertaining who will furnish supplies on the lowest terms, the Warden shall cause a notice to be published in two of the newspapers printed in the City of Kingston, one in the City of Montreal, and one in the City of Toronto ; the proposals to be offered pursuant to such notice, shall specify the lowest price per ration per day, and the contracts shall be made with those persons whose terms are most advantageous to the Province, and who shall give satisfactory security for the performance of their contract : Provided always,

Provisions to be supplied by contract, &c.

always, that should the Warden not deem the tenders offered satisfactory, he may, with the consent of the Inspectors, decline the same, and advertise anew. 14, 15 V. c. 2, s. 32.

ARBITRATIONS.

Arbitration to be had in certain cases.

52. Whenever any controversy arises relative to any claim or demand which any person may have against the Warden on account of the Penitentiary, such controversy may be referred to the arbitration of two or more persons mutually chosen by the Warden and the person with whom the controversy exists or to one person mutually chosen by the arbitrators so appointed as an umpire. And it shall be the duty of the Warden to enforce the payment of all debts due to the Institution, as soon, and with as little expence to the Province as possible; but he may, with the approbation in writing of the Inspectors, accept of such security from any debtor, on granting time, or such composition in full settlement, as may be conducive to the interests of the Province. 14, 15 V. c. 2, s. 33. 5
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Books, &c., to be public property.

53. All Books of Account, Registers, Letters, Returns, Bills of Parcels, and other documents and papers relating to the affairs of the Penitentiary, shall be considered as public property, and remain therein; and the Warden of the said Penitentiary shall preserve therein at least one set of copies of all Official Reports made to the Legislature respecting the same, for which purpose, and to enable the Warden to distribute such Official Reports in exchange for the like documents from other similar Institutions, he shall for the purpose of distribution, be furnished by the Clerk of the Legislative Assembly with fifty copies of such Reports when they have been printed by order of the Legislative Assembly. 14, 15 V. c. 2, s. 34. 20
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VESSELS, BOATS, &C.

Vessels, &c., not to be moored within a certain distance of the Penitentiary.

54. No raft, craft, boat or vessel of any description shall be allowed to moor or anchor within three hundred feet of the shore or wharf bounding the lands of the Penitentiary, without the permission of the Warden being first had and obtained; and any person violating the provisions of this section, shall, upon conviction thereof before a Justice of the Peace, be liable to pay a penalty of ~~Five Pounds~~, to be levied by distress and sale of the offender's goods and chattels, under the Warrant of such Justice, and in default of payment of the same, with the costs thereon, and if sufficient distress cannot be found, he shall be imprisoned at the discretion of the said Justice, for any period not exceeding two months. 14, 15 V. c. 2, s. 35. 30
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\$20.

SPIRITUOUS LIQUORS.

55. No spirituous or fermented liquors shall on any pretence whatever be sold within the Penitentiary; nor shall any kind of spirituous or fermented liquors be brought into the Penitentiary for the use of any Officer except the Warden, or for the use of any convict confined therein. And any person giving spirituous or fermented liquors, or tobacco, or snuff, or cigars, to any convict, or conveying the same to any convict, shall forfeit and pay the sum of ~~Ten pounds currency~~ to the Warden, to be by him recovered for the use of the Prison in any Court of competent Jurisdiction. 14, 15 V. c. 2, s. 36.

Spirits not to be sold nor introduced without leave.

8 40.

LETTERS.

56. No person shall, without consent of the Warden, bring into or convey out of the Penitentiary any letter, writing, or other article, to or from a convict, nor shall any Officer or other person employed therein write any letter on behalf of a convict; and whoever violates either of the provisions of this clause shall be guilty of a misdemeanor, and shall be fined or imprisoned, or both, at the discretion of the Court before which he or she may be convicted for the same. 14, 15 V. c. 2, s. 37.

Letters not to pass in or out of the prison without leave.

PERSONS PRIVILEGED TO VISIT AT PLEASURE.

57. The following persons may visit the Penitentiary at pleasure, namely: the Governor, the Members of the Executive Council, the Members of the Legislature, the Judges of the several Courts in this Province, including ~~Circuit~~ County Judges, and Queen's Counsel; but no other person shall be permitted to enter within the walls where the prisoners are confined, except by the special permission of the Warden or Visitors, and then, under such regulations as the Inspectors prescribe. 14, 15 V. c. 2, s. 38.

Who to be visitors ex officio.

Handwritten signature/initials

CORONER'S INQUESTS.

58. Whenever a convict dies in the Penitentiary, it shall be the duty of the Inspectors, the Warden, the Chaplains, the Physician, and the Deputy Warden, if they or any of them have reason to believe that the death of such convict arose from any other than ordinary sickness, to call upon a Coroner having jurisdiction, to hold an inquest upon the body of such deceased convict, and on such requisition by one or more of the officers named, the Coroner having jurisdiction shall hold such inquest, and for that end he, and the Jury and all others necessarily attending such inquest, shall have admittance to the Prison. 14, 15 V. c. 2, s. 39.

Coroners' inquests when convicts die in the Penitentiary.

DISPOSAL OF DECEASED CONVICTS.

59. The body of every convict who dies in the Penitentiary shall if claimed, be delivered to and taken away by the friends or relatives of the deceased, but if not so claimed, the body may be delivered to an Inspector of Anatomy duly appointed under the Act respecting Anatomy, or if not so delivered shall be decently interred at the expense of the Institution. 14, 15 V. c. 2, s. 39. 20 V. c. 28, s. 30. 5

PUNISHMENTS.

60. No punishments or privations of any kind shall be awarded in the Penitentiary except by the Warden or other Officer acting for the time being in his room. 14, 15 V. c. 2, s. 40.

61. The Warden shall cause to be kept a Book of Record, which shall be written up daily, shewing all complaints against convicts for improper conduct in the Penitentiary, and showing under separate columns the date of each complaint, the name of each convict implicated in each offence, the nature of each offence, the punishment awarded to it, the date of infliction, the signature of the Officer making the complaint, and that also of the Officer who inflicted the sentence or saw it carried out; and there shall be a column in the said Book for the sentence, which shall be filled in by the Warden and signed by him. 15 20

62. No complaint by any Officer against any convict shall be entertained by the Warden until it has been recorded in the said Punishment Book; and no punishment shall be inflicted for any offence until the day after that in which the offence was committed: and no punishment shall be inflicted until the Warden has entered his award in the Punishment Book. 25

63. In the event of the refractory conduct of any convict rendering it necessary, the Warden, may summarily remove such convict apart, and place him in a cell and keep him there until the usual hour of punishment has arrived. 30

64. Should the Inspectors authorize Corporal punishment to be inflicted in the Prison, the Warden is to have recourse to it only in extreme cases, and shall not inflict more than seventy-five lashes for any one offence; and no corporal punishment shall be inflicted until the Physician has certified to the bodily fitness of the convict for such punishment; nor shall any such infliction be carried out except in the presence of the Warden and Physician, nor shall corporal punishment be inflicted in any case upon any female convict in the said Penitentiary. 14, 15 V. c. 2, s. 40. 35 40

QUESTIONS TO BE PUT TO CONVICTS.

65. The Inspectors shall draw up a form of questions to be put to each convict on his or her discharge from the Penitentiary, so framed as to shew by the answers, the views of the convicts as to the discipline and the treatment of the prisoners, and the effects produced on each; and the said formula of questions shall, immediately before his or her discharge be by the Warden put to every convict in the presence of the Chaplain of such convict, and the answers of each convict shall be correctly recorded in a book kept for that purpose, and the convict shall subscribe the same after it has been recorded, and the Warden and Chaplain shall sign their names to the same in attestation of the correctness thereof. 14, 15 V. c. 2, s. 41.

Questions to be put to convicts at the time of discharge.

66. No convict shall be discharged from the Penitentiary on Sunday, but any and every sentence expiring on that day shall be held as expiring on the day previous, and the Warden shall discharge such prisoner on Saturday. And no convict shall be discharged from the Penitentiary at the termination of his or her sentence, if he or she then labours under any grievous illness during which he or she cannot be safely discharged—unless at the request of the convict. And whenever any convict is discharged from the Penitentiary, either by pardon or expiration of sentence, the Warden shall furnish such convict with the necessary clothing, ordered by the Inspectors, and with such sum of money, not exceeding ~~five~~ **Pounds**, as the said Warden may deem proper and necessary. 14, 15 V. c. 2, s. 42.

Convicts not to be discharged on Sundays—nor if sick unless at request.

With what funds to be supplied.

\$ 20

67. No prisoner shall be compelled to leave the Penitentiary at the expiration of the term to which he or she was sentenced, during the months of November, December, January, February or March, and all prisoners whose sentences expire during those months shall be allowed to remain in the Penitentiary under the same discipline and control as if their sentences were still unexpired, until the first day of April following the expiration of their formal sentence. And on the said first day of April, a list shall be made of all the prisoners whose sentences expired during the five preceding months according to the date when their sentences expired, and according to such order they shall be discharged, one convict on the first April, and one on every day thereafter, until the whole have been so discharged. 14, 15 V. c. 2, s. 43.

Prisoners not compelled to leave the Prison during certain months.

FEMALE PRISONERS.

68. The female prisoners shall be kept totally distinct and secluded from the males, and shall be under the charge of the Matron and Assistant Matron, subject however to all the provisions of.

Female prisoners how to be taken care of.

provisions of this Act, and the rules and regulations of the Prison, as far as applicable to them. 14, 15 V. c. 2, s. 44.

RULES FOR MILITARY CONVICTS.

Military con-
victs—treat-
ment of.

69. The Inspectors of the Penitentiary may in their discretion prepare a separate system of discipline and employment for the Military convicts, and after submitting the same for the sanction of the Governor General in Council, and receiving such sanction, they may put such system in operation as far as regards military prisoners only, notwithstanding the provisions of this Act. 14, 15 V. c. 2, s. 45.

INSANE CONVICTS.

Insane con-
victs treat-
ment of.

70. In case it be certified by a Board of Physicians to be appointed for the time being by the Governor in Council, and not to consist of less than three Physicians, that any convict confined in the Penitentiary is insane, and that it is desirable that such convict should be removed therefrom to the Lunatic Asylum, the Governor by Warrant under his hand directed to the Warden of the Penitentiary may authorize him forthwith to send such convict to the Lunatic Asylum of Upper Canada, or when established to the Lunatic Asylum for criminal convicts which the Warden shall accordingly do, and he shall appoint some proper person to convey the convict to such Asylum; and the convict shall be received into such Asylum, and be there safely kept until remanded to the said Penitentiary, or until his term of imprisonment therein has expired; and if at any time before the expiration of the said term, it be certified by the Physician of the said Asylum that such convict has recovered his reason, and is in a fit state to be remanded to the Penitentiary, the Governor by Warrant under his hand, directed to the Warden of the Penitentiary, may authorize him forthwith to send for such convict from the Asylum, and cause him or her to be reconveyed to the Penitentiary and kept therein; and the said Warden shall thereupon appoint a proper person to proceed to the Asylum and receive such convict, and convey him or her to the Penitentiary, and such convict shall by the authorities of the Asylum be delivered to the person so appointed, and be re-conveyed to the Penitentiary; and the authorities of the Asylum and the person appointed as aforesaid to convey any convict to the Asylum, or to re-convey him or her to the Penitentiary, shall have the same power and authority to detain such convict or to re-take him or her in case of an escape, and to command the assistance of any persons in re-taking him or her, or in preventing such escape, as the Warden or other Officers of the Penitentiary, or any person appointed by a Sheriff to convey any convict to the Penitentiary after being sentenced to imprisonment therein, would have in the like case, and if the term of imprisonment of any convict expires while he is detained in the Lunatic Asylum,

Asylum, he may, nevertheless, be detained therein until discharged as sane, or delivered to his friends under a Warrant from the Governor to that effect. 14, 15 V. c. 2, s. 46.

71. The Warden and all other officers and servants of the ^{Persons in} Penitentiary in office at the time this Act takes effect, shall continue to hold their respective offices, subject to and until removed under the provisions of this Act. 14, 15 V. c. 2, s. 1. ^{office continued.}

72. This Act shall continue in force until the ^{Duration of} day of next, and from thence to the end of the Act. ^{Act.} next ensuing Session of Parliament, and no longer. 14, 15 V. c. 2, s. 47,---19 V. c. 85,---20 V. c. 16,---22 V. c. 81.

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SCHEDULE OF ACTS

AND PARTS OF ACTS WHICH RELATE TO THE

WHOLE PROVINCE OF CANADA,

REFERRED TO IN THE ACT

RESPECTING THE CONSOLIDATED STATUTES

OF

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