THE

STATUTES

OF HIS MAJESTY'S PROVINCE OF

UPPER-CANADA.

Enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Legislative Council and Assembly of the said Province, Constituted and Assembled by virtue of and under the Authority of an Act of the Parliament of GREAT BRITAIN, *passed in the Thirty-First Year of the Reign of Our Sovereign Lord* GEORGE THE THIRD, *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."*

YORK:

PRINTED UNDER THE AUTHORITY AND BY COMMAND OF HIS EXCELLENCY PETER HUNTER ESQUIRE, LIEUTENANT GOVERNOR OF THE PROVINCE OF UPPER CANADA, AND LIEUTENANT GENERAL COMMANDING HIS MAJESTY'S FORCES IN UPPER AND LOWER CANADA.—BY JOHN BENNETT, PRINTER TO THE KING'S MOST EXCELLENT MAJESTY.

—1802.—

STATUTES

OF HIS MAJESTY'S PROVINCE OF

UPPER-CANADA.

STATUTES
OF HIS MAJESTY's PROVINCE OF
Upper-Canada.

Paſſed in the firſt Seſſion of the firſt Provincial Parliament of Upper Canada, met at Niagara on the Seventeenth day of September, in the Thirty-ſecond year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the fifteenth day of October following.

HIS EXCELLENCY
JOHN GRAVES SIMCOE ESQUIRE, LIEUTENANT GOVERNOR.

CHAP. I.

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 introduce the Engliſh Law, as the Rule of Deciſion in all matters "of Controverſy, relative to Property and Civil Rights"*

WHEREAS, by an Act paſſed in the fourteenth year of his preſent Majeſty, intituled, "An Act for making more effectual proviſion for the "Government of the Province of *Quebec*, in *North-America*," it was, among other things, provided, "That in all matters of controverſy relative "to property and civil rights, reſort ſhould be had to the Laws of *Canada* "as the rule for the deciſion of the ſame;" ſuch proviſion being manifeſtly and avowedly intended for the accommodation of His Majeſty's *Canadian* ſubjects: And whereas, ſince the paſſing of the Act aforeſaid, that part of the late Province of *Quebec*, now comprehended within the Province of *Upper-Canada*, having become inhabited principally by *Britiſh* ſubjects, born and educated in countries where the *Engliſh* Laws were eſtabliſhed, and who are unaccuſtomed to the Laws of *Canada*, it is inexpedient that the proviſion aforeſaid contained in the ſaid Act of the fourteenth year of his preſent Majeſty, ſhould be continued in this Province—Be it enacted, by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted

Preamble.

Recital of Act 14 Geo. III.

constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, "That from and after the passing of this Act, the "said provision contained in the said Act of the fourteenth year of his pre- "sent Majesty, be, and the same is hereby repealed; and the authority of "the said Laws of *Canada*, and every part thereof, as forming a rule of "decision in all matters of controversy relative to property and civil rights, "shall be annulled, made void and abolished, throughout this Province, "and that the said Laws, nor any part thereof as such, shall be of any force "or authority within the said Province, nor binding on any of the inhabi- "tants thereof."

The same repealed in so far as it constitutes the laws of Canada a rule of decision, in matters of controversy, relative to property and civil rights.

II. *Provided always, and be it Enacted by the Authority aforesaid*, That nothing in this Act shall extend to extinguish, release or discharge, or otherwise to affect any existing right, lawful claim or incumbrance, to and upon any lands, tenements or hereditaments within the said Province, or to rescind or vacate, or otherwise to affect any contract or security already made and executed conformably to the usages prescribed by the said Laws of *Canada*.

Without affecting claims on real property or contracts or securities already executed.

III. *And be it further Enacted by the Authority aforesaid*, That from and after the passing of this Act, in all matters of controversy relative to property and civil rights, resort shall be had to the Laws of *England* as the rule for the decision of the same.

The laws of England to be henceforth the rule of decision.

IV. *Provided always, and be it Enacted by the Authority aforesaid*, That nothing in this Act shall extend, or be construed to extend, to repeal or vary any of the ordinances made and passed by the Governor and Legislative Council of the Province of *Quebec*, previous to the division of the same into the Provinces of *Upper* and *Lower-Canada*, otherwise than as they are necessarily varied by the provisions herein mentioned.

But the ordinances of the Province of Quebec are no further repealed than as by this act they are necessarily varied.

V. *And be it further Enacted by the Authority aforesaid*, That all matters relative to testimony and legal proof in the investigation of fact, and the forms thereof, in the several Courts of Law and Equity within this Province, be regulated by the rules of evidence established in *England*.

The rules of evidence to be regulated by those established in England.

VI. *Provided always, and be it Enacted by the Authority aforesaid*, That nothing in this Act contained, shall vary, or interfere or be construed to vary or interfere with any of the subsisting provisions respecting ecclesiastical rights or dues within this Province, or with the forms of proceeding in civil actions, or the jurisdiction of the Courts already established, or to introduce any of the Laws of *England* respecting the maintenance of the poor, or respecting bankrupts.

But no alteration is made in the subsisting provisions respecting ecclesiastical rights or dues, or the jurisdiction of courts of justice, or the poor or bankrupt laws.

CHAP. II.

CHAP. II.

An ACT *to Eſtabliſh Trials by Jury.*

WHEREAS, the Trial by Jury has been long eſtabliſhed and approved in our mother country, and is one of the chief benefits to be attained by a free Conſtitution—Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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 Govern-"ment of the ſaid Province," and by the authority of the ſame, That from and after the firſt day of December, in this preſent year of our Lord One Thouſand Seven Hundred and Ninety-Two, all and every iſſue and iſſues of fact, which ſhall be joined in any action, real, perſonal or mixed, and brought in any of His Majeſty's Courts of Juſtice within the Province aforeſaid, ſhall be tried and determined by the unanimous verdict of twelve Jurors, duly ſworn for the trial of ſuch iſſue or iſſues, which Jurors ſhall be ſummoned and taken conformably to the Law and cuſtom of *England*. Preamble. All iſſues of fact to be determined by the verdict of 12 jurors conformably to the law & cuſtom of England.

II. *Provided always, and be it further Enacted by the Authority aforeſaid*, That nothing herein contained ſhall prevent, or be conſtrued to prevent the ſaid Jurors, in all caſes where they ſhall be ſo minded, from bringing in a ſpecial verdict. Who may bring in a ſpecial verdict.

CHAP. III.

An ACT *to Eſtabliſh the* WINCHESTER *Meaſure, and a Standard for other Weights and Meaſures throughout this Province.*

WHEREAS, an uniformity of Weights and Meaſures is much deſired in this Province, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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 effec-"tual proviſion for the Government of the Province of *Quebec*, in *North-*"*America*, and to make further proviſion for the Government of the ſaid "Province," and by the authority of the ſame, That from and after the firſt day of May, in the year of our Lord One Thouſand Seven Hundred and Ninety-Three, there ſhall be one juſt beam or balance, one certain weight and meaſure, and one yard, according to the Standard of His Majeſty's Exchequer in England, uſed throughout this Province; and whoever Preamble. Standard for weights & meaſures.

ſhall

shall keep any other weight, measure or yard, whereby any corn, grain, or other thing is bought or sold, shall forfeit for every offence Two Pounds, *Quebec* currency, being thereof convicted before any two Justices of the Peace, to be levied by distress and sale of the offenders goods, one half of which penalty shall be paid to the informer or informers, and the other half to his Majesty, his Heirs and Successors, for the public use of the said Province, and towards the support of the Government thereof.

Penalty for not complying.

How levied and applied.

II. *And be it further Enacted by the Authority aforesaid*, That from and after the day above-mentioned, there shall be appointed certain judicious persons in every District throughout this Province, by the Magistrates in Quarter Sessions assembled, in and for such District, to ascertain the bushel, half bushel, or other measure by which Grain or other dry articles shall be bought or sold, and who shall mark and seal such bushel, half bushel, or other measure, with the letters and figures G. III. R. and receive for the same the sum of fourpence *Quebec* currency, without which letters and figures, no measure for grain or other dry articles shall be used for the purposes aforesaid, under the penalty above-mentioned.

Persons appointed to mark measures.

How marked. Penalty.

III. *Provided always*, That this Act, and the provisions and penalties therein contained, shall not extend, or be construed to extend to the Western District in this Province, until the twenty-fifth day of October, which will be in the year of our Lord One Thousand Seven Hundred and Ninety-Three.

When this Act commences in the Western District.

CHAP. IV.

An ACT *to Abolish the Summary Proceedings of the Courts of Common Pleas, in Actions under Ten Pounds Sterling.*

Preamble.

WHEREAS, the introduction of the Trial by Jury hath materially altered the Constitution of the Courts of Common Pleas, held for the Trial of causes under the value of Ten Pounds sterling, so that their times of sitting and forms of process must become manifestly inconvenient—Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, all causes of action that exceed in value the sum of Forty Shillings, *Quebec* currency, shall be commenced and proceeded in, at the same times, and in the same manner, as is directed for the Trial of causes above Ten Pounds sterling.

How to proceed in actions above 40s.

CHAP. V.

CHAP. V.

An ACT *to Prevent Accidents by Fire in this Province.*

Preamble.

WHEREAS, the Inhabitants of the Province of *Upper Canada* are liable to receive great injuries from accidental Fires that may happen therein, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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 pro- "viſion for the Government of the Province of *Quebec*, in *North-America*, "and to make further proviſion for the Government of the ſaid Province," and by the authority of the ſame, That from and after the firſt day of November, in the year of our Lord One Thouſand Seven Hundred and Ninety-Two, it ſhall and may be lawful for the Magiſtrates of each and every Diſtrict in this Province, in Quarter Seſſions aſſembled, to make ſuch orders and regulations for the prevention of accidental Fires within the ſame, as to them ſhall ſeem meet and neceſſary, and to appoint Fire-Men, or other Officers for the prevention of accidental Fires, or for the purpoſe of extinguiſhing the ſame, when ſuch may happen; and to make ſuch orders and regulations as to them may ſeem fit or neceſſary, in any Town or Towns, or other place or places, in each Diſtrict within this Province, where there may be forty Store-Houſes and Dwelling-Houſes within the ſpace of half a mile ſquare.

Magiſtrates in Quarter Seſſions authorized to make regulations to prevent accidental fires, where 40 ſtore and dwelling houſes are erected within half a mile ſquare.

CHAP. VI.

An ACT *for the more Eaſy and Speedy Recovery of Small Debts.*

Preamble.

WHEREAS, it will contribute to the conveniency of the Inhabitants of this Province to have an eaſy and ſpeedy method of recovering ſmall Debts, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, it ſhall and may be lawful for any two or more Juſtices of the Peace, acting under and by virtue of His Majeſty's commiſſion within the reſpective limits of their ſaid commiſſions, to aſſemble, ſit and hold a Court of Juſtice, to be called a Court of Requeſts, on the firſt and third Saturday in every month, at ſome fixed place within their reſpective diviſions,

Two or more juſtices may hold a Court of Requeſts on the 1ſt & 3d. Saturday of every month, within their reſpective

divisions, to be ascertained in Quarter Sessions,

sions, which division shall be ascertained and limited by the Justices assembled in their general Quarter Sessions, or the greater part of them, and the place for holding the said Court shall be fixed by the Justices acting in and for the said division, or the greater part of them; And the said Justices are hereby declared, constituted and appointed to be Commissioners to hear and determine all such matters of Debt as are herein after mentioned; and shall

And give judgment and award execution there upon as shall seem just.

have power and authority, by virtue of this Act, to give judgment and decree, and award execution thereupon, with such costs as shall be herein after specified, against the goods and chattels of all and every the person and persons against whom they shall give any judgment or decree, as to them shall seem just in Law and Equity.

II. *And be it further Enacted by the Authority aforesaid*, That from and after the first day of February next, it shall and may be lawful to and for every Inhabitant within the limits of this Province, who then or thereafter shall have any Debt or Debts owing to him, her or them, not exceeding the

In matters not exceeding 40s.

sum of Forty Shillings, *Quebec* currency, by any person or persons whatsoever inhabiting the said Province, to cause such Debtor or Debtors to be

Summons.

warned or summoned by a writing under the hand of a Justice of the Peace, acting under and by virtue of His Majesty's commission, to be left with some

Service.

grown person at the dwelling-house or place of abode of such Debtor or Debtors, or by service of the same on the person of such Debtor, to appear before the Justices of the said Court; and that the said Justices shall, after such summons as aforesaid, have full power and authority, by virtue of this

Judgment.

Act, to make, or cause to be made, such Acts, Orders, Decrees, Judgments and Proceedings between such Plaintiff, and his, her or their Debtor's Defendants, touching such Debts not exceeding the sum of Forty Shillings, *Quebec* currency, in question before them, as they shall find consistent with equity and good conscience, and all such Acts, Orders, Decrees, Judg-

Record.

ments and Proceedings, shall be entered in a Book to be kept for that purpose.

May administer an oath to either party & to their witnesses.

III. And, for the more due and regular proceeding in the said Court, it is hereby further enacted, That it shall and may be lawful for the said Justices to administer an Oath to the Plaintiff or Defendant, as well as to such Witness or Witnesses as shall be produced by each party, and also to all the Officers of the said Court, when the said Justices shall think it meet.

IV. *And be it further Enacted by the Authority aforesaid*, That in case any person or persons shall make Oath or give Evidence, in any cause depending before the said Justices in the said Court, whereby he or they shall commit

Perjury punished as by 5 Eliz.

wilful or corrupt perjury, and thereof be duly convicted according to Law, that such person or persons shall suffer the pains and penalties inflicted on wilful and corrupt perjury, by the Statute passed in the fifth year of the Reign of Queen *Elizabeth*.

Commissioners shall be sworn.

V. *And be it further Enacted by the Authority aforesaid*, That no person or persons shall be capable of acting as a Commissioner or Commissioners in the execution

execution of the power given by this Act, until such time as he or they shall respectively have taken an Oath, to the effect following :—

Oath.

" *I* A. B. *do Swear, that I will faithfully, impartially and honestly, ac-*
" *cording to the best of my judgment, hear and determine such matters and things*
" *as shall be brought before me, by virtue of an Act of the Legislature of this*
" *Province, intituled,* " An Act for the more easy and speedy recovery of
" small Debts," *without favor or affection to either Party*———SO HELP
" ME GOD."

Fees.

VI. *And be it further Enacted by the Authority aforesaid,* That the several fees and sums of money herein after limited and expressed, and no more, shall and may be taken—for every Summons, six-pence; for every Judgment, two shillings; for every Execution, two shillings; for every Subpœna, six-pence; for every Copy of Judgment, if demanded, one shilling;—the allowance to be paid to all and every of the Witnesses, to be left to the discretion of the Justices, but not to exceed two shillings and six-pence per day to each Witness;—and for serving every Summons or Subpœna, within one mile of the Justices' house, one shilling; and for every mile in travelling to execute the same, when the distance exceeds one mile, four-pence; for serving Writ of Execution, seizing and selling effects, and making return, two shillings.

CHAP. VII.

An ACT *to Regulate the Toll to be taken in Mills.*

Preamble.

WHEREAS, it is expedient to ascertain and determine the quantity of Grain to be taken by way of Toll, for grinding the said Grain into Flour and bolting the same, and whereas, different customs have obtained within the several Districts of this Province, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of and under the authority of an Act, passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the first day of January, in the year of our Lord One Thousand Seven Hundred and Ninety-Three, no owner or occupier, or owners or occupiers of any Mill or Mills within this Province, or any person employed by him or them, shall demand, take or receive any quantity or proportion of Grain, brought to him or them to be ground and bolted, greater than one twelfth share or part for grinding and bolting such Grain.

No greater proportion to be taken for grinding & bolting grain than one twelfth.

II. *And be it further Enacted by the Authority aforesaid,* That any owner or occupier, or owners or occupiers of a Mill or Mills within the said Province,

vince, or any perſon employed by him or them, who ſhall demand and take after the day and year above mentioned, any quantity or proportion of Grain, greater than one twelfth ſhare or part of ſuch Grain as aforeſaid, ſhall for every ſuch offence, forfeit and pay the ſum of Ten Pounds, *Quebec* currency, one moiety thereof to his Majeſty, his Heirs and Succeſſors, for the public uſes of the ſaid Province, and the ſupport of the Government thereof, and the other moiety of the ſaid ſum to any perſon who ſhall ſue for the ſame, in any of His Majeſty's Courts of Record within this Province.

Penalty.

How levied and applied.

III. And whereas, much inconvenience and confuſion has ariſen from the cuſtom of bringing bags of Grain without any diſtinguiſhing mark to whom the ſaid bags of Grain belong, Be it enacted by the authority aforeſaid, that no owner or occupier of any Mill ſhall be bound to receive, or be chargeable with the loſs of any bag or bags of Grain or Flour, unleſs the ſame be marked with the initial letters of the chriſtian and ſirname of the owner of the ſaid Grain, or with ſome mark diſtinguiſhing the ſaid bag or bags, which mark of diſtinction ſhall be previouſly communicated and made known to the ſaid owner or occupier, or his ſervant uſually attending the ſaid Mill.

Bags muſt be marked.

CHAP. VIII.

An ACT *for Building a Gaol and Court-Houſe in every Diſtrict within this Province, and for altering the Names of the ſaid Diſtricts.*

Preamble.

WHEREAS, great inconveniences have been ſuffered by the Inhabitants of this Province, from the want of Priſons and Court-Houſes in the ſeveral Diſtricts thereof, and whereas ſuch buildings are manifeſtly neceſſary for the regular adminiſtration of juſtice, and the due execution of the Laws, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, intituled, "An Act to "repeal certain parts of an Act paſſed in the fourteenth year of his Majeſ- "ty'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," and by the authority of the ſame, That a Gaol and Court-Houſe ſhall be erected in manner herein after to be mentioned, in each and every Diſtrict throughout the ſaid Province.

A gaol and court houſe to be built in each diſtrict.

2. *And be it Enacted by the Authority aforeſaid*, That from and after the paſſing of this Act, the name of the Diſtrict at preſent known by the name of the Diſtrict of *Lunenburgh*, and bounded as in a certain Proclamation iſſued by his Excellency *Guy Lord Dorcheſter*, in the twenty-eighth year of his Majeſty's Reign, is deſcribed, ſhall ceaſe, and that the ſaid Diſtrict ſhall hereafter, in all public proceedings, be called and known by the name of the EASTERN Diſtrict.

The diſtrict of Lunenburgh to be henceforth called the Eaſtern Diſtrict.

The diſtrict of

3. *And be it further Enacted by the Authority aforeſaid*, That from and after the

the paſſing of this Act, the name of the Diſtrict at preſent known by the name of the Diſtrict of *Mecklenburgh*, and bounded as in a certain Proclamation iſſued by his Excellency *Guy Lord Dorcheſter*, in the twenty-eighth year of his Majeſty's Reign, is deſcribed, ſhall ceaſe, and that the ſaid Diſtrict ſhall hereafter, in all public proceedings, be called and known by the name of the MIDLAND Diſtrict.

Mecklenburgh to be henceforth called the Midland diſtrict.

4. *And be it further Enacted by the Authority aforeſaid*, That from and after the paſſing of this Act, the name of the Diſtrict at preſent known by the name of the Diſtrict of *Naſſau*, and bounded as in a certain Proclamation iſſued by his Excellency *Guy Lord Dorcheſter*, in the twenty eighth year of his Majeſty's Reign, is deſcribed, ſhall ceaſe, and that the ſaid Diſtrict ſhall hereafter, in all public proceedings, be called and known by the name of the HOME Diſtrict.

The diſtrict of Naſſau to be henceforth called the Home diſtrict.

5. *And be it further Enacted by the Authority aforeſaid*, That from and after the paſſing of this Act, the name of the Diſtrict at preſent known by the name of the Diſtrict of *Heſſe*, and bounded as in a certain Proclamation iſſued by his Excellency *Guy Lord Dorcheſter*, in the twenty-eighth year of his Majeſty's Reign, is deſcribed, ſhall ceaſe, and that the ſaid Diſtrict ſhall hereafter, in all public proceedings, be called and known by the name of the WESTERN Diſtrict.

The diſtrict of Heſſe to be henceforth called the Weſtern diſtrict.

6. *Provided always, and it is hereby Enacted*, That ſuch alteration of the names of the ſaid ſeveral Diſtricts, ſhall not impeach, or be conſtrued to impeach the validity of any exiſting commiſſion, granted for the exerciſe of any authority or juriſdiction within the limits of the ſaid diſtricts, or any of them, by the names herein before mentioned, or to make void any legal or other proceeding, had under and by virtue of the ſaid commiſſions, or otherwiſe to affect the ſaid commiſſions in any reſpect whatever.

Such alteration of names not to avoid commiſſions or legal proceedings.

7. And for the better effectuating the building the ſaid Gaol and Court-Houſe in each of the ſaid Diſtricts, *Be it further Enacted by the Authority aforeſaid, and it is hereby Enacted*, That the Juſtices of the Peace within the reſpective limits of their commiſſions, at the general Quarter Seſſions aſſembled, ſhall be authorized, and they are hereby authorized, by ſuch means as ſhall to them ſeem moſt fitting and convenient, to procure different plans and elevations of a Gaol and Court-Houſe, to be laid before them, for the purpoſe of ſelecting and determining upon one of the ſaid plans and elevations, which ſhall be approved of by the greater part of the ſaid Juſtices then and there aſſembled as aforeſaid.

Magiſtrates in Quarter Seſſions to procure different plans and elevations of a gaol and court houſe, & to approve of one,

8. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for any two or more of the ſaid Juſtices, aſſembled in manner aforeſaid, in the name and on the behalf of the Inhabitants of the ſeveral Diſtricts, to contract, and they are hereby enabled and authorized to contract, with any perſon or perſons who ſhall be willing to build the ſaid Gaol and Court-Houſe, according to the plan ſo approved of as aforeſaid, upon a ſeite or ſituation to be determined upon by the ſaid Juſtices, or the greater part

and to contract for building the ſame agreeably thereto.

part of them, so assembled as aforesaid, and for that purpose, the said plan and elevation shall remain and continue in the office of the Clerk of the Peace of the said several Districts, for general inspection, and public notice shall be given to all persons willing to contract for the building of the said Gaol and Court-House, to deliver in, within a certain limited time, written proposals or offers, under seal, of the sum of money for which he or they will engage to build such Gaol or Court-House, conformably to certain articles and conditions, to be agreed upon by the Justices then present, or the greater part of them as aforesaid; and that the said Justices shall, on a day for that purpose previously to be fixed, openly examine the said proposals so delivered in as aforesaid, and shall be empowered and are hereby required, to contract with such person or persons as shall offer to undertake and perform the said buildings for the lowest price, provided the person or persons making such proposals, shall give and enter into good and sufficient security, to be approved of by the said Justices, or the greater part of them, in manner aforesaid, for the due performance of their contract.

Public notice being given for receiving proposals, and the same examined, the lowest shall be accepted, provided the security be sufficient.

When to be completed.

9. *Provided always*, That it be an article within the said contract, and the person or persons so contracting shall engage, that the said Gaol and Court-House shall be completed within eighteen calendar months after the execution of the said contract.

Where to be built in the Eastern district.

10. *And be it further Enacted by the Authority aforesaid*, That a Gaol and Court-House for the *Eastern* District, shall be built in manner aforesaid, in the Town of *New-Johnstown*, in the Towdship of *Edwardsburgh*.

In the Midland district.

11. *And be it further Enacted by the Authority aforesaid*, That a Gaol and Court-House for the *Midland* District, shall be built in manner aforesaid, in the Town of *Kingston*.

In the Home district.

12. *And be it further Enacted by the Authority aforesaid*, That a Gaol and Court House for the *Home* District, shall be built in manner aforesaid, in the Town of *Newark*.

In the Western district.

13. *And be it further Enacted by the Authority aforesaid*, That a Gaol and Court-House for the *Western* District, shall be built in manner aforesaid, as near to the present Court-House as conveniently may be.

Sheriff to appoint the Gaoler.

14. *And be it further Enacted by the Authority aforesaid*, That in each and every District, the Sheriff thereof shall have power and authority, to nominate and appoint such person as he shall judge most proper, to the office of Gaoler and Keeper of the Gaol and Court-House, and also to remove and discharge such Gaoler and Keeper.

No licence to be granted for retailing spirituous liquors within such gaols.

15. *Provided always*, That no Licence shall be granted for Retailing any Spirituous Liquors within any of the said Gaols or Prisons, and if any Gaoler, Keeper or Officer of any Gaol or Prison, shall sell, lend, use, or give away, or knowingly permit, or suffer any Spirituous Liquors or strong Waters, to be sold, used, lent, or given away, in such Gaol or Prison, or brought into the same, other than except such Spirituous Liquors or strong Waters, as shall be prescribed or given by the prescription and direction of a

regular

regular Phyſician, Surgeon, or Apothecary; every ſuch Gaoler, Keeper, or other Officer, ſhall for every ſuch offence, forfeit and loſe the ſum of Twenty Pounds, current money of this Province, one moiety thereof to his Majeſty, his Heirs and Succeſſors, for the public uſes of the ſaid Province, and the ſupport of the Government thereof, and the other moiety of the ſaid ſum, with full coſts of ſuit, to ſuch perſon or perſons as will ſue for the ſame, in any of His Majeſty's Courts of Record in this Province, by action of debt, bill, plaint, or information; and in caſe any ſuch Gaoler or other Officer being convicted thereof as aforeſaid, ſhall again offend in like manner, and be thereof a ſecond time lawfully convicted, ſuch ſecond offence ſhall be deemed a forfeiture of his office.

Penalty on gaolers tranſgreſſing in this reſpect.

Penalty for a ſecond tranſgreſſion.

16. *Provided alſo*, That it ſhall and may be lawful for the ſaid Juſtices at their Quarter Seſſions aſſembled, as aforeſaid, or the greater part of them, to frame and draw up ſuch rules and regulations to be obſerved and obeyed within the ſaid Gaols, reſpectively, as to them ſhall ſeem moſt proper and convement, which having received the approbation and ſignature of one of the Judges of the Supreme Court, ſhall be binding on the Gaoler and Priſoners.

Rules made in quarter Seſſions when approved by a judge ſhall be binding on the Gaoler and priſoners.

17. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the ſaid Juſtices within the reſpective limits of their commiſſions, aſſembled as aforeſaid, or the greater part of them, and they are hereby authorized and empowered, to aſcertain and appoint a reaſonable yearly ſalary, according to their diſcretion, to be paid to the Gaoler, and that the ſaid ſalary ſhall be in place of all fees, perquiſites, or impoſitions of any ſort or kind whatever, and that it ſhall not be lawful for the ſaid Gaoler, or any Officer belonging to the ſaid Gaol, to demand or receive any fee, perquiſite or other payment, from any Priſoner who may be confined within any of the ſaid Gaols or Priſons.

A yearly ſalary ſhall be appointed to ſuch gaoler in place of all fees, perquiſites or impoſitions whatever.

THE

THE STATUTES OF HIS MAJESTY's PROVINCE OF Upper-Canada.

Paſſed in the ſecond Seſſion of the firſt Provincial Parliament of Upper Canada, met at Niagara on the Thirty-firſt day of May, in the Thirty-third year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the ninth day of July following.

CHAP. I.

An ACT *for the better Regulation of the Militia in this Province.*

Preamble.

WHEREAS, the eſtabliſhment of a reſpectable Militia, under proper Officers, is eſſential for the protection and defence of the Province, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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 pro-"viſion for the Government of the Province of *Quebec*, in *North-America*, "and to make further proviſion for the Government of the ſaid Province," and by the authority of the ſame, That from and after the paſſing of this Act, an Ordinance of the Province of *Quebec*, paſſed in the ſeventeenth year of His Majeſty's Reign, intituled, "An Ordinance for regulating the "Militia of the Province of *Quebec*, and rendering it of more general util-"ity towards the preſervation and ſecurity thereof," ſhall be repealed, and the ſame is hereby repealed accordingly. And be it enacted by the authority aforeſaid, That the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, ſhall and may from time to time, conſtitute and appoint a Lieutenant in each and every County and Riding thereof, who ſhall have full power and authority, and is hereby required, to call together, arm and array, and cauſe to be trained and exerciſed, ſuch perſons, in ſuch manner as herein after directed, once in every year; and the ſaid Lieutenants ſeverally, ſhall from time to time, conſtitute and appoint

Ordinance for regulating the militia repealed.

Lieutenants of Counties to be appointed,

point one ſuch perſon as they ſhall think fit, qualified as herein after directed, and living within their reſpective Counties and Ridings, to be their Deputy Lieutenant, (the names of ſuch perſons having been firſt preſented to and approved by the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of the Province for the time being) and ſhall appoint a ſufficient number of Colonels, Lieutenant Colonels, Majors, and other Officers, qualified as herein after directed, to train, diſcipline, and command the perſons ſo to be armed and arrayed according to the rules, orders and directions herein after mentioned, and ſhall certify to the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of the ſaid Province, the names and ranks of all ſuch Officers ſo appointed; and in caſe the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of the Province, ſhall within two months after ſuch certificate ſhall have been laid before him, ſignify his diſapprobation of any of the perſons ſo appointed, it ſhall not be lawful for the ſaid Lieutenants to grant a commiſſion to the perſon ſo diſapproved, but commiſſions ſhall be granted to all ſuch perſons ſo appointed who ſhall not be ſo diſapproved of, as aforeſaid, and the Officers ſo appointed for the Militia, to be armed and arrayed as herein after directed, ſhall rank with the Officers of ſuch of His Majeſty's forces, as may for the time being ſerve within this Province, as youngeſt of their reſpective rank.

with power to conſtitute their deputies, train the militia and appoint the officers thereof.

The names of ſuch officers, & their ranks, being certified to the Governor, &c. thoſe not diſapproved ſhall receive commiſſions.

Their rank in the army.

II. *And be it further Enacted*, That when the Lieutenant of any County or Riding ſhall be out of the Province, or when there ſhall be no Lieutenant, it ſhall be lawful for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of the Province, to authorize the Deputy Lieutenant of ſuch County or Riding, to grant commiſſions, and do all ſuch acts, matters and things as might lawfully have been done by the ſaid Lieutenant, and the ſame ſhall be good and valid in law, as if done by the ſaid Lieutenant, and ſuch commiſſions ſo granted by ſuch Lieutenant or Deputy Lieutenant, to the Officers aforeſaid, ſhall not be revoked or made void by the death of the party granting the ſame.

Powers veſted in the deputy lieutenants of counties.

III. *And be it further Enacted*, That the Lieutenant of every County or Riding, ſhall have the chief command of the Militia within ſuch County or Riding, and that one Deputy Lieutenant ſhall be appointed within each County and Riding for the purpoſes of this Act.

The lieutenant to command the militia and have a deputy.

IV. *And be it further Enacted by the Authority aforeſaid*, That every perſon ſo to be appointed a Deputy Lieutenant, ſhall be poſſeſſed of five hundred acres of Land, within the Diſtrict in which the County or Riding to which he is appointed a Deputy Lieutenant is ſituated, to and for his own uſe and benefit, free and clear of and from all mortgages and other incumbrances whatſoever; and every perſon ſo to be appointed a Colonel, ſhall in like manner be poſſeſſed of four hundred acres of Land, within the Diſtrict in which the County or Riding where he is ſo appointed Colonel is ſituated, to and for his own uſe and benefit, free and clear of and from all mortgages or other

Proportion of land to be poſſeſſed by the deputy lieutenant and officers of the militia reſpectively.

other incumbrances whatsoever; and every Lieutenant Colonel so to be appointed in such County or Riding as aforesaid, shall be possessed of four hundred acres of Land, in like manner and form and under the conditions aforesaid; and every Major and Captain, so to be appointed in such County or Riding as aforesaid, shall be possessed of three hundred acres of Land, in like manner and form and under the conditions aforesaid; and every Lieutenant and Ensign so to be appointed in such County or Riding as aforesaid, shall be possessed of two hundred acres of Land, in like manner and form and under the conditions aforesaid, which said Deputy Lieutenants, Colonels, Lieutenant Colonels, Majors, Captains, and other Officers respectively, shall, within six months next after their several appointments, take the oath of allegiance to his present Majesty, his Heirs and Successors, before the Magistrates assembled in Quarter Sessions within the limits aforesaid.

When and in what manner they shall take the oath of allegiance.

General meetings of the lieutenancy to be holden.

V. *And be it further enacted by the authority aforesaid*, That the general meetings of the lieutenancy of each county and riding, shall be holden at the most convenient place within such county or riding, and such general meetings shall consist of the lieutenant together with the deputy lieutenant or one justice of the peace for the said district, or on the death or removal, or in the absence, of the lieutenant thereof, the deputy lieutenant aforesaid, and one justice of the peace of each county and riding respectively. And one such general meeting shall be holden within every county and riding annually on the fourth day of June, or in case that day should happen to be Sunday, on the Monday following, in every year; and the lieutenant, together with the deputy lieutenant, or one justice of the peace or (on the death or removal or in the absence of the lieutenant) any deputy lieutenant of any county or riding, together with a justice of the peace as aforesaid, when and so often as they shall find it necessary for carrying the purposes of this Act into execution, may summons or cause to be summoned other general meetings of the lieutenancy, on any days to be fixed by such summons, giving at least one month's notice of such intended general meeting, in the most public manner that the same can be made and circulated throughout the county or riding, and in case any annual or other general meeting shall not be attended by the lieutenant and deputy lieutenant or justice of the peace, or by the deputy lieutenant and one justice of the peace as herein before required, the said meeting shall and may be adjourned by the lieutenant or deputy lieutenant then present, to some other time, and to any other place within such county or riding, as shall and may to them seem meet and convenient.

Where and when, annually

and oftener, if necessary, due notice being given.

Annual or general meetings may be adjourned.

Sub-division meetings.

VI. *And be it further enacted*, That where the extent of the county or riding may be such as to require sub-division meetings, that the meetings of the deputy lieutenant within the respective counties or ridings shall be holden as herein after directed, which sub-division meeting shall consist of the deputy lieutenant of such county or riding respectively, and one justice of the peace, to do all acts, matters and things, which are by this act directed to be done by the deputy lieutenants at the respective sub-division meetings, and if it shall happen that there shall not appear at such sub-division meeting one deputy lieutenant

Of what persons to consist, and powers thereof.

lieutenant and one juſtice of the peace, the clerk at ſuch meeting ſhall by notice given in writing to the deputy lieutenant of ſuch ſub-diviſion, to be left at their reſpective places of abode, appoint another meeting to be holden within fourteen days, at the ſame place where ſuch meeting was to have been holden, ſuch notice being given five days at leaſt previous to ſuch meeting.

On notice another ſuch meeting may be appointed.

VII. *And be it further enacted*, That in thoſe counties or ridings, where it may be neceſſary to hold ſub-diviſion meetings, the lieutenant and deputy lieutenant at the general meeting, ſhall and may apportion the ſame into diviſions, as may beſt ſuit the general convenience of the county or riding, and ſhall and may by public notice, declare the limits of each diviſion reſpectively, and the pariſhes, townſhips or places contained therein, and ſhall and may at ſuch general meeting where it ſhall be deemed neceſſary, appoint two or more meetings in every year, in different parts of the ſaid county or riding, giving three weeks previous notice at leaſt to the inhabitants of the reſpective pariſhes, townſhips or places within the diviſion, of the time and place where ſuch meeting is to be holden, and ſhall and may appoint a clerk to attend the ſame.

Sub-diviſion of counties.

Annual meetings in conſequence thereof.

Clerk to attend the ſame.

VIII. *And be it further enacted*, That every male inhabitant from ſixteen years of age to fifty, ſhall be deemed capable of bearing arms, and ſhall inroll or cauſe to be inrolled his name as a militia man, at the firſt meeting for that purpoſe to be holden for the diviſion in which his place of abode may be, and ſhall at ſuch meeting give in his name, his age and place of reſidence, and if he has thereto but lately removed, he ſhall make known the ſame, together with the place whence he removed. And each and every ſuch inhabitant as aforeſaid, who ſhall not at the firſt meeting, for that purpoſe to be holden for the diviſion in which his place of abode may be, either attend in perſon and give in his name in writing, or cauſe himſelf to be made known in ſome certain way to the lieutenant, deputy lieutenant, or perſon preſiding at ſuch meeting, ſo that his name may be inrolled as a militia man, ſhall for ſuch neglect, upon conviction thereof, before any one juſtice of the peace, forfeit and pay the ſum of twenty ſhillings, to be raiſed and applied in manner herein after mentioned.

Perſons to inroll in the militia.

In what manner to inrol.

Penalty for neglect.

IX. *Provided always*, That when ſuch inhabitant ſhall have once inrolled, or cauſe to be inrolled, his name in manner aforeſaid, he need not attend any other meeting for the ſaid diviſion, to be holden for the purpoſe of inrollment, unleſs thereunto ſummoned in writing.

Perſons inrolled exempted from attending other inrollment meetings.

X. *And be it further Enacted*, That after every ſub-diviſion meeting, the clerk of the ſaid meeting ſhall, within fourteen days, tranſmit to the clerk of the general meeting, a fair and true copy of the rolls, ſigned at the ſaid meeting, and to the end, that it may be better known, whether any inhabitant liable to be inrolled and ſerve as aforeſaid, ſhall have omitted to cauſe his name to be inrolled, the clerk of the ſaid meeting ſhall, and is hereby required, to tranſmit to the conſtable of every pariſh, townſhip or place within the ſaid diviſion, a liſt of the perſons living within ſuch pariſh, townſhip, or place, reſpectively, who ſhall have delivered in their names as aforeſaid,

Copies of inrollments in the ſub-diviſion meetings to be tranſmitted to the clerk of the general meeting,

and by him to the conſtables of every pariſh, &c.

which liſt, or a copy thereof, the ſaid conſtable ſhall fix in ſome public place within ſuch pariſh, townſhip or place, for public inſpection.

Annual review.

XI. *And be it further Enacted*, That the lieutenant of each county or riding, ſhall, once in every year, call out the militia of ſuch county or riding, to be reviewed and exerciſed, and in his abſence from the county, or in caſe of his removal, or death, the ſaid militia ſhall be called out by the deputy lieutenant of ſuch county or riding, and every perſon liable to ſerve in ſuch militia, whether officer or private, neglecting or refuſing to attend (except in caſe of ſickneſs or having obtained leave of abſence) ſhall forfeit and pay, if an officer, forty ſhillings, and if a non commiſſioned officer or private, ten ſhillings. But if it ſhall appear to the lieutenant of any county or riding to be more conducive to the intereſt and convenience of ſuch county or riding, that the militia of the ſame be reviewed at different times and in ſeparate bodies, it ſhall and may be lawful for the lieutenant to call out a part of the militia of his county or riding, at ſome convenient time and place, and the remaining part at ſome other convenient time and place, as ſhall to him ſeem meet.

Penalty for not attending.

Review may be appointed at ſeveral times and places.

Captains to diſcipline their companies.

XII. *And be it further Enacted*, That the captains of the militia ſhall draw out their reſpective companies not leſs than twice, nor more than four times in every year, giving ten days notice thereof, at the moſt convenient time and place in the county or riding, and ſhall inſpect their arms and inſtruct them in their duties; and every perſon after ſuch notice as aforeſaid, who ſhall neglect to attend, or ſhall diſobey, whether ſubaltern officer or private, (except in caſe of ſickneſs or on leave of abſence) ſhall forfeit and pay, every officer, the ſum of forty ſhillings, and every non-commiſſioned officer or private, the ſum of ten ſhillings, for every ſuch diſobedience.

Penalty for diſobeying notice.

In caſes of emergency, the militia to be called forth for ſervice, to any place within the province.

XIII. *And be it further Enacted*. That in time of war, rebellion, or any other preſſing exigency of the ſtate, it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government, to call forth the different companies of the militia, and to march them from their reſpective counties or ridings, towns, townſhips or pariſhes, and there to ſerve in conjunction with the other militia, or with His Majeſty's forces, under the guidance and ſuperintendance of the officers, whom the governor, lieutenant governor, or perſon adminiſtering the government, ſhall appoint, ſo as the ſaid militia be not marched out of the province, and the ſaid officers and privates, upon being regularly diſmiſſed, may return to their own homes, and any perſon refuſing to obey ſuch order or command, or abſconding from or neglecting to repair to the place he is ordered to, being a commiſſioned officer, ſhall forfeit and pay the ſum of fifty pounds, and be held to be unfit to ſerve His Majeſty in any military capacity, and being a non-commiſſioned officer or private, ſhall forfeit and pay the ſum of twenty pounds, and in default of payment for ſuch refuſal or neglect, ſuch officer, non-commiſſioned officer or private, ſhall be committed to the common gaol of the diſtrict, for any time not leſs than ſix, or more than twelve calendar months, except ſuch perſon ſhall ſatisfy the lieutenant of ſuch county or riding of which he is a militia man, that ſuch neglect or refuſal aroſe from ſickneſs, or that he was abſent upon leave.

Penalty for diſobedience on ſuch occaſions.

XIV.

Or in detachments, of a limited number when expedient

XIV. And whereas, it may be expedient on certain occaſions, to call out detachments of the militia, Be it enacted by the authority aforeſaid, that it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government, ſo to do, and to limit and fix the number of men to be called out on ſuch detachment. And in caſes of emergency, by actual invaſion or otherwiſe, when it may not be practicable to conſult the governor, lieutenant governor, or perſon adminiſtering the government of the province, it ſhall and may be lawful for the lieutenant or deputy lieutenant of the ſeveral counties and ridings, to limit and appoint the number of men that he ſhall judge neceſſary to be called out, and for that purpoſe to iſſue his orders to the ſeveral commanding officers, and alſo to direct and authorize any officer, having firſt obtained a warrant for ſuch purpoſe, from one of His Majeſty's juſtices of the peace, to impreſs ſuch carriages and horſes as the ſervice may require, for the uſe of which, the owner or owners thereof, ſhall be intitled to receive the ſum of ſeven ſhillings and ſixpence per day, for every cart or carriage with two horſes or oxen, during ſuch time as the ſame ſhall be employed or detained on public ſervice.—Provided always, that whenever it ſhall happen, that only part of the body of the militia of this province ſhall be called out for actual ſervice, it ſhall and may be lawful for any perſon being of the militia of the county or riding that may be ſo called out, to provide and ſend an able bodied man to ſerve in the ſaid militia in his ſtead, and ſuch able bodied man ſhall be taken and received as a proper ſubſtitute for ſuch perſon, living in the county or riding, that would otherwiſe be obliged to ſerve in the ſaid part of the militia called out as aforeſaid.

Provifional powers veſted in the lieutenants of counties, and their deputies to call forth the ſame

and impreſs carriages for the ſervice.

Serving by ſubſtitute admiſſible.

XV. *And be it further Enacted*, That every perſon who ſhall ſell or barter any part of the arms, ammunition or equipments, which may be delivered out of His Majeſty's ſtores to the militia, or any ammunition, which may be furniſhed by His Majeſty for training and exerciſing the ſaid militia, and every perſon who ſhall buy, or by barter obtain the ſame, ſhall ſeverally and reſpectively forfeit and pay the ſum of five pounds for every offence, on conviction thereof, by the oath of any one credible witneſs, before any juſtice of the peace reſiding within the county where the ſame has been committed, and in caſe the perſon or perſons, ſo ſelling any part of his or their arms, ammunition or equipments as aforeſaid, or the perſon or perſons obtaining the ſame in manner aforeſaid, being thereof convicted as aforeſaid, ſhall neglect or refuſe to pay the ſaid ſum of five pounds, it ſhall and may be lawful for the juſtice by a warrant under his hand, to commit ſuch perſon or perſons to the gaol of the county or diſtrict where the offence ſhall be committed, for any ſpace of time not exceeding two months. Provided always, That it ſhall and may be lawful for the ſaid juſtice to diſcharge the perſon or perſons ſo offending, any time before the expiration of the ſaid two months, when the perſon or perſons ſo convicted as aforeſaid, ſhall tender to the ſaid juſtice the penalty inflicted by this act.

Penalty for the ſale or purchaſing of arms, ammunition, &c. iſſued to the militia.

Perſons convicted ſhall be impriſoned for non-payment.

XVI. *And be it further Enacted*, That in the ſeveral counties and ridings where the number of men is ſufficient, the militia ſhall be formed into regiments, conſiſting of not more than ten, nor leſs than five companies, which companies

Diſpoſition of the militia into regiments.

companies shall consist of not more than fifty, nor less than twenty, private men, and the field officers of such regiments shall be as follows, that is to say, one colonel, one lieutenant colonel, and one major, and where the number of militia shall amount to a number under eight, and not less than five companies, such militia shall be formed into a battalion, and the field officers of such battalion, shall be one lieutenant colonel, and one major only, and in each regiment or battalion of militia, there shall be one captain, one lieutenant, and one ensign, to each company. Provided always, That it shall and may be lawful for every battalion consisting of five companies or upwards, to have one company of grenadiers or light infantry, to which two lieutenants shall be appointed instead of one lieutenant and one ensign. And it shall be lawful for every regiment consisting of eight companies or upwards, to have one company of grenadiers, and one of light infantry, to each of which companies, two lieutenants shall be appointed instead of one lieutenant and one ensign.

Officers thereof

into battalions. Officers thereof

Regulation for companies of grenadiers and light infantry.

Appointment of adjutants & qr. masters.

XVII. *And be it further Enacted*, That to every regiment or battalion of militia, which shall consist of five or more companies, there shall be in addition to the officers already mentioned, one adjutant and one quarter master.

Formation of independent companies.

XVIII. *And be it further Enacted*, That in the several counties and ridings, where the militia men are not in number sufficient to form a regiment or battalion, according to the intent and meaning of this Act, the militia of such counties or ridings shall be formed into independent companies, each company to consist of not more than fifty, nor less than twenty private men, with one captain, one lieutenant and one ensign, to each company, and that the governor, lieutenant governor, or person administering the government, may when he shall think proper, join together any number of such independent companies, and form a battalion or battalions, or may incorporate them with any other regiment or battalion of militia, provided the number of companies in any such regiment or battalion, be not thereby made to exceed the number of companies, of which a regiment or battalion of militia is herein before directed to consist.

Junction of several thereof into a battalion

or incorporation into other regiments, &c.

Lieutenants of counties to act as colonels, while that appointment is vacant.

XIX. *And be it further Enacted*, That it shall and may be lawful for the lieutenant of any county or riding to act as colonel or commanding officer of any regiment, battalion, or independent company of militia for such county or riding, for and during such time as there shall not be any colonel or commanding officer appointed to such regiment, battalion, or independent company, but no such lieutenant of any county or riding, shall at any one time, act as colonel or commanding officer to more than one body of militia, whether regiment, battalion, or independent company; and when the lieutenant of any county or riding, shall take the command of any body of militia, not being by this act deemed a regiment, he shall be intitled to the rank of colonel, except when the said company shall be formed into battalion as aforesaid.

To one body of militia only, and rank as such.

Exception.

The militia when embodied

XX. *And be it further Enacted*, That at all times when the militia may be called out and embodied for actual service, the officers, non-commissioned officers

officers and private men of the ſeveral regiments, battalions and independent companies of militia, ſhall from the time of their being drawn out and embodied as aforeſaid, and until they ſhall be returned again to their reſpective towns, townſhips, pariſhes or places of abode, remain under the command of his excellency the governor, lieutenant governor, or other general officer having the command of them, and ſhall be liable to the proviſions of ſuch Act or Acts of this Province, as may be in force for the puniſhment of mutiny, deſertion, and other crimes, or may hereafter be made, and be in force for the explanation, amendment or enforcement of this Act, and for want of any Act or Acts of this Province, or where the ſame ſhall not extend to puniſh deſertion to the enemies of this Province, or any treaſonable correſpondence that may be held with them, by any perſon or perſons acting in the ſaid militia, during the time they ſhall be called out, that then and in ſuch caſe, the ſaid militia and every part thereof, ſhall be and conſidered to be under the rules, regulations, pains and penalties of any Act or Acts of the Britiſh Parliament, that may be in force for the puniſhment of mutiny and deſertion. Provided always, that no officer ſerving in any of His Majeſty's other forces, ſhall ſit in any court martial, upon the trial of any officer or private man ſerving in the militia.

for actual ſervice, ſhall be under the command of the governor,

and ſubject to the proviſions of Acts of this Province made or to be made in this reſpect,

and in certain caſes to thoſe of the Britiſh Parliament.

No officer of other forces to ſit on court martials.

XXI. *And be it further Enacted*, That except in time of actual ſervice, the judges of the ſupreme court and clergy, the members of the legiſlative and executive councils, and their reſpective officers, the members of the houſe of aſſembly for the time being, and the officers thereto belonging, His Majeſty's attorney-general, the ſecretary of the Province, and all other civil officers, who ſhall have been, or hereafter may be appointed, to any civil office in this Province, under the great ſeal of the ſame, as well as all magiſtrates, ſheriffs, coroners, half-pay officers, militia officers having ſerved under and by virtue of a commiſſion from any of His Majeſty's governors in the different Provinces, now ſtates of America, the ſurveyor general and his deputies duly appointed, ſea-faring men actually employed in the line of their calling, phyſicians, ſurgeons, the maſters of public ſchools, ferry-men, and one miller to every griſt mill, ſhall be and they are hereby excuſed from ſerving in the ſaid militia. Provided always, that this Act and the exceptions herein contained, ſhall not prevent, and it is hereby declared, that the ſame ſhall not be conſtrued to prevent any, or every above mentioned perſon or perſons from holding commiſſions as officers in the militia of this Province. Provided always, that it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, by warrant under his hand and ſeal, to exempt any of the perſons herein before enumerated, to whom ſuch warrant ſhall be granted, from being called out for the ſervice aforeſaid.

Perſons exempted from ſerving in the militia except in time of actual ſervice.

but may notwithſtanding hold commiſſions.

Governor, &c. may grant exemptions from actual ſervice.

XXII. *And be it further Enacted*, That the perſons called Quakers, Menoniſts, and Tunkers, who from certain ſcruples of conſcience, decline bearing arms, ſhall not be compelled to ſerve in the ſaid militia, but every perſon profeſſing that he is one of the people called Quakers, Menoniſts or Tunkers, and producing a certificate of his being a Quaker, Menoniſt or Tunker, ſigned by any three or more of the people (who are or ſhall be by them authorized

Exceptions in favor of Quakers, Menoniſts and Tunkers.

thorized to grant certificates for this or any other purpoſe of which a paſtor, miniſter or preacher ſhall be one) ſhall be excuſed and exempted from ſerving in the ſaid militia, and inſtead of ſuch ſervice, all and every ſuch perſon or perſons, that ſhall or may be of the people called Quakers, Menoniſts or Tunkers, ſhall pay to the lieutenant of the county or riding, or in his abſence to the deputy lieutenant, the ſum of twenty ſhillings per annum in time of peace, and five pounds per annum in time of actual invaſion or inſurrection, upon producing ſuch certificate, and being thereby exempted from ſuch ſervice as aforeſaid, and if any ſuch perſon or perſons being of the people called Quakers, Menoniſts or Tunkers, and producing a certificate as aforeſaid, ſhall omit or refuſe to pay the ſum of twenty ſhillings per annum in time of peace, and five pounds per annum in time of actual invaſion or inſurrection, inſtead of ſuch ſervice, it ſhall and may be lawful, upon the oath of any one credible witneſs, of ſuch omiſſion or refuſal before any juſtice of the peace, for ſuch juſtice to iſſue his warrant to levy the ſame by diſtreſs and ſale of the offender or offenders goods and chattels, returning ſo much of the ſaid diſtreſs as ſhall exceed the ſaid ſum of twenty ſhillings per annum in time of peace, and five pounds per annum in time of actual invaſion or inſurrection, after deducting the expences of levying the ſame, to the perſon or perſons upon whom ſuch diſtreſs ſhall be made. And if any meaſures ſhall be uſed in making ſuch diſtreſs which may by ſuch perſon or perſons be thought oppreſſive, he or they may complain to the lieutenant or deputy lieutenant at the next meeting, who ſhall hear and finally determine the ſame.

Compoſition money to be paid by ſuch for being exempted.

Compoſition money to be levied by diſtreſs, on omiſſion or refuſal to pay the ſame.

Perſons diſtrained may appeal if oppreſſed

XXIII. *And be it further Enacted*, That it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government, to appoint a proper perſon to be the adjutant general of the ſaid militia, who ſhall do all matters and things appertaining to the ſaid office of adjutant general, and be paid for and during the time of his ſerving in the ſaid militia, as ſuch adjutant general as aforeſaid, the ſum of one dollar per day, per annum, free and clear of and from all deduction whatſoever.

Appointment of an adjutant general, and his ſalary.

XXIV. *And be it further Enacted by the Authority aforeſaid*, That the fines, penalties and forfeitures by this Act impoſed, ſhall be ſued for and recovered by and upon the oath of any one credible witneſs, before any one of His Majeſty's juſtices of the peace, and within two months after ſuch conviction and recovery, ſhall be tranſmitted by the juſtice before whom ſuch information ſhall be laid to the lieutenant, in caſe there be no lieutenant or that he be abſent, to the deputy lieutenant of the county, where the offence has been committed. And the ſaid lieutenants ſhall, and are hereby required, yearly and every year, to tranſmit to his Majeſty's receiver general, the ſeveral ſums of money by them received by way of compoſition from the perſons permitted by virtue of this Act to make ſuch compoſition, and the ſaid receiver general ſhall out of the monies aforeſaid, pay to the ſaid adjutant general, upon his producing a warrant for ſuch purpoſe, to be ſigned by the governor, lieutenant governor, or perſon adminiſtering the government, the ſum herein before directed to be paid. And in caſe any ſurplus of ſuch monies ſhall remain in the hands of the ſaid receiver general, after making

Fines, &c. to be recovered before one magiſtrate,

and tranſmitted to the lieutenant or his deputy, and by him annually, along with the compoſition monies be paid to the receiver general, to ſatisfy the ſalary of the adjutant general, and other purpoſes of the militia.

ſuch

ſuch payment as aforeſaid, ſuch ſurplus ſhall be diſpoſed of, as the governor, lieutenant governor, or perſon adminiſtering the government ſhall direct, to purpoſes only that ſhall reſpect the ſaid militia, and the other fines, forfeitures and penalties ſhall be appropriated to the purchaſe of ſuch neceſſaries, as may be requiſite towards the eſtabliſhing of and better providing for the militia aforeſaid.

Limitation of actions, within ſix months, for things done by virtue of this Act.

XXV. *And be it further Enacted by the Authority aforeſaid,* That if any action ſhall be brought againſt any lieutenant or deputy lieutenant, or againſt any deputy lieutenant and juſtice of any county or riding, or againſt any juſtice or juſtices of the peace, for any thing done by virtue of this Act, that ſuch action or ſuit ſhall be commenced within ſix months next after the fact has been committed, and not afterwards, and ſhall be laid in the diſtrict, county or place where the cauſe of complaint did ariſe, and not elſewhere, and the defendant or defendants in ſuch action or ſuit ſhall and may plead the general iſſue, and give the ſpecial matters and this Act in evidence, and where the plaintiff or plaintiffs ſhall be non-ſuited or diſcontinue his or their action, after the defendant or defendants ſhall have appeared, and if upon any demurrer judgment ſhall be given againſt the plaintiff or plaintiffs, the defendant or defendants ſhall have treble coſts, and have the like remedy for the ſame, as the defendant hath in other caſes to recover coſts by law.

Plaintiffs if non-ſuited, to pay treble coſts.

CHAP. II.

An ACT *to provide for the Nomination and Appointment of Pariſh and Town Officers within this Province.*

Preamble.

WHEREAS, it is requiſite for the maintenance of good order and the regular execution of the laws, that proper officers ſhould be appointed to ſuperintend the obſervance thereof; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That it ſhall and may be lawful, as ſoon as conveniently may be, after the paſſing of this Act, for any two of His Majeſty's juſtices of the peace, acting within the diviſion in which any pariſh, townſhip, reputed townſhip or place may be, to iſſue their warrant, giving eight days previous notice to the conſtable of ſuch pariſh, townſhip, reputed townſhip, or place, authorizing him on a day to be fixed by the ſaid juſtices in the preſent year, and on the firſt Monday in the month of March in every enſuing year, to aſſemble the inhabitant houſeholders, paying or liable to pay, to any public aſſeſſment or rate of ſuch pariſh, townſhip, reputed townſhip, or place, in the pariſh church or chapel, or in ſome convenient place within the ſaid pariſh, townſhip, reputed

Annual town meetings to be holden, aſſembled by warrant of two magiſtrates.

When.

for the purpoſe of chooſing pariſh or town officers.

puted townſhip, or place, for the purpoſe of chooſing and nominating the pariſh or town officers herein after mentioned, to ſerve in their reſpective offices for the year next enſuing, at which meeting the ſaid conſtable ſhall preſide.

Election of a pariſh or town clerk,

II. *And be it Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the ſaid inhabitant houſeholders, or the greater part of them ſo aſſembled, to chooſe one fit and proper perſon from among the inhabitants to be clerk of the ſaid pariſh, town or townſhip, who ſhall and is hereby required to make a true and complete liſt of every male and female inhabitant within the limits of his pariſh, town or townſhip, and return the ſame to the juſtices acting as aforeſaid, ſo as they may produce the ſaid liſt at the general quarter ſeſſions in the month of April to be holden, and the ſaid clerk ſhall and is hereby required, to enter and record all ſuch matters, as ſhall relate to the ſaid pariſh, town or townſhip, and ſhall appertain to his office, which records ſhall be faithfully and carefully kept and preſerved by ſuch clerk, and by him delivered to his ſucceſſor duly nominated and appointed.

duties of his office.

Election and duties of aſſeſſors.

III. *And be it further Enacted by the authority aforeſaid*, That it ſhall and may be lawful for the ſaid inhabitant houſeholders, in manner aforeſaid, to chooſe two fit and proper perſons, from among the ſaid inhabitants, to ſerve the office of aſſeſſors for the ſaid pariſh, townſhip, reputed townſhip or place, who ſhall aſſeſs all ſuch rates and taxes, as ſhall be impoſed by any Act or Acts of the Legiſlature of this Province, and be payable by the inhabitants thereof.

Election and duties of collector.

IV. And alſo to chooſe and nominate in manner aforeſaid, one fit and proper perſon to ſerve the office of collector for ſuch pariſh, townſhip, reputed townſhip, or place, who ſhall and may, and is hereby authorized, from time to time, to demand and receive from the inhabitant houſeholders, under the ſaid aſſeſſment, ſuch monies as may be due and payable from the ſaid inhabitants, in reſpect of the matters aforeſaid, which collector ſhall account for and pay over the monies ſo received by him, in ſuch manner as ſhall be directed by any Act or Acts of the ſaid Legiſlature, that may authorize the impoſing and levying ſuch rates and taxes reſpectively.

Election and duties of the overſeers of the highways,

V. And alſo to chooſe and nominate in manner aforeſaid, not leſs than two or more than ſix perſons, as ſhall be ſpecified in the warrant to be iſſued by the ſaid juſtices, to ſerve the office of overſeers of highways and roads, to overſee and perform ſuch things as ſhall be directed by any Act to be paſſed, touching or concerning the highways and roads in this Province, which ſaid overſeers ſhall alſo ſerve the office of fence-viewers, and are hereby authorized and required, upon receiving proper notice, to view and determine upon the heighth and ſufficiency of any fence or fences within their reſpective pariſh, townſhip, reputed townſhip, or place, conformably to any reſolutions, that may be agreed upon by the ſaid inhabitants at ſuch meeting to be holden, under and by virtue of ſuch warrant as aforeſaid.

the ſufficiency of fences to be within their cognizance.

Nomination of a pound-keeper, and duties incident to his office.

VI. And alſo to chooſe and nominate in manner aforeſaid, a perſon or perſons to ſerve the office of pound-keeper, who is hereby authorized to impound all cattle, and each and every horſe, ſheep and hog that ſhall treſpaſs

on

on the lands of any perſon, having incloſed the ſame by ſuch high and ſufficient fence, as ſhall have been agreed on in manner aforeſaid, and alſo to impound any ſtoned horſe, more than one year old, that ſhall be running at large upon the high-ways or commons, and to detain ſuch horſe, until the owner thereof ſhall have paid the ſum of twenty ſhillings, one half to be paid to the perſon taking ſuch horſe, the other half thereof to the collector, towards the public ſtock of the diſtrict.

Nomination of town wardens.

VII. And alſo to chooſe and nominate in manner aforeſaid, two fit and diſcreet perſons to ſerve the office of town wardens for ſuch pariſh, townſhip, reputed townſhip, or place; but as ſoon as there ſhall be any church built for the performance of divine ſervice, according to the uſe of the church of England, with a parſon or miniſter duly appointed thereto, then the ſaid inhabitant houſeholders ſhall chooſe and nominate one perſon, and the ſaid parſon or miniſter ſhall nominate one other perſon, which perſons ſhall jointly ſerve the office of church warden, and that ſuch town wardens or church wardens, and their ſucceſſors duly appointed, ſhall be as a corporation, to repreſent the whole inhabitants of the townſhip or pariſh, and as ſuch may have a property in goods or chattels of or belonging to the ſaid pariſh, and ſhall and may ſue, proſecute or defend in all preſentments, indictments or actions, for, and on the behalf of the inhabitants of the ſaid pariſh.

Proviſion in behalf of pariſh churches when built.

Powers veſted in town wardens.

A liſt of perſons nominated at ſuch meeting ſhall forthwith be communicated to a magiſtrate of the diviſion.

VIII. *And be it further Enacted by the Authority aforeſaid*, That the conſtable preſiding at ſuch meeting, ſhall and is hereby required, to cauſe a liſt to be made out, containing the names of the perſons choſen and nominated to ſerve and execute the ſeveral offices herein before mentioned in manner aforeſaid, which liſt ſhall be ſigned by the ſaid conſtable, who ſhall forthwith communicate the ſame to either of the juſtices, having ſigned the warrant by virtue of which ſuch meeting was holden, and it ſhall and may be lawful for either of the ſaid juſtices, or for any juſtice of the peace, acting within the diviſion, and he is hereby authorized and empowered to adminiſter an oath of office, to each and every perſon or perſons ſo choſen and nominated as aforeſaid, within ſeven days after ſuch meeting as aforeſaid, in the following form:

Who may ſwear the ſame into office.

Oath.

"You *A. B. do promiſe and ſwear, that you will faithfully, diligently and juſtly ſerve and perform the office and duties of* for *according to the beſt of your abilities*—So help you God."

Perſons ſworn ſhall be held lawfully appointed.

And that every perſon having taken ſuch oath, ſhall be held to be lawfully appointed to ſuch office, for which he ſhall have been choſen and nominated as aforeſaid.

Penalty for neglecting or refuſing to be ſworn into office after nomination.

IX. *Provided always*, That any perſon ſo choſen and nominated to ſerve any of the offices herein before mentioned in manner aforeſaid, who ſhall refuſe or neglect to ſignify his conſent to enter upon ſuch ſervice, and to take the oath herein before ſet forth by the ſpace of ſeven days after ſuch nomination as aforeſaid, ſhall forfeit and pay the ſum of forty ſhillings for every ſuch neglect or refuſal, to be recovered upon proof thereof or confeſſion,

seſſion, or by the oath of one credible witneſs, before any one juſtice of the peace, acting within the ſaid diviſion, to be levied by warrant of diſtreſs, and ſale of the goods and chattels of the party ſo neglecting or refuſing, and to be paid into the hands of the treaſurer, towards the public ſtock of the diſtrict, except in the caſe of forfeiture of any perſon or perſons nominated to be overſeers of the highways and roads, and refuſing to act, whoſe penalties ſhall be paid into the hands of the commiſſioners of the highways and roads, and that it ſhall and may be lawful, in caſe of refuſal as aforeſaid, for any two of his Majeſty's juſtices, acting within the ſaid diviſion, to hold a ſpecial ſeſſion for the purpoſe of naming one or more perſon or perſons to ſerve the office, that may have been refuſed, by the party choſen to ſerve the ſame, and fined in manner aforeſaid, and if the perſon or perſons ſo named by the ſaid juſtices, upon being ſerved with due notice thereof, which notice the conſtable is hereby required to ſerve upon the perſon, or leave the ſame at his uſual place of abode, ſhall neglect or refuſe by the ſpace of ſeven days, after the ſervice of ſuch notice, to accept the ſaid office, and take the oath herein before preſcribed, he ſhall for every ſuch neglect or refuſal, forfeit the ſum of forty ſhillings, to be levied by diſtreſs and ſale, and and paid over in manner herein before mentioned.

Application of ſuch penalties.

Magiſtrates to name other perſons into offices vacant by refuſal.

Penalty for refuſing ſuch office.

Nomination of a high conſtable annually, for each diſtrict,

X. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the juſtices of the peace, within the reſpective limits of their commiſſions at their general quarter ſeſſions in the month of April aſſembled, or the greater part of them, to nominate and appoint yearly and every year, a ſufficiently diſcreet and proper perſon, to ſerve the office of high conſtable in each and every diſtrict, and alſo to nominate and appoint, ſuch a ſufficient number of perſons, as in their diſcretion will be neceſſary, to ſerve the office of conſtable in each and every pariſh, townſhip, reputed townſhip, or place, and the ſaid conſtable and conſtables, before they enter upon their office, ſhall ſeverally take the following oath, which it ſhall and may be lawful for any juſtice of the peace to adminiſter—

and of conſtables for each townſhip, &c.

Oath.

"You *ſhall well and truly ſerve our Sovereign Lord the King, in the Office of for the of for the year enſuing, according to the beſt of your ſkill and knowledge*—So help you God."

Period of exemption from an office after ſerving the ſame.

XI. *Provided always, and be it further Enacted by the Authority aforeſaid*, That no perſon having been appointed and ſerved any of the offices mentioned in this Act, ſhall be liable to be appointed, or ſerve the ſame office, within three years from ſuch appointment and ſervice, unleſs he ſhall conſent thereto.

Proviſion for townſhips, &c. thinly inhabited.

XII. *Provided alſo*, That when any townſhip, or reputed townſhip, ſhall not contain thirty inhabitant houſeholders, it ſhall not be lawful for the ſaid juſtices to iſſue their warrant for calling a meeting therein; but the ſaid inhabitant houſeholders ſhall be joined to, and be reputed and taken as inhabitants of the townſhip adjacent thereto, which ſhall contain the ſmalleſt number of inhabitants.

XIII.

XIII. *And be it enacted*, That it ſhall and may be lawful for the juſtices of the Peace within the reſpective limits of their commiſſions, at the General Quarter Seſſions in the month of April to be holden, aſſembled, or the greater part of them, to limit and appoint ſuch fees and perquiſites as to them ſhall appear reaſonable to be demanded and taken by every town clerk and pound keeper of the ſeveral pariſhes or townſhips within their reſpective diſtricts.

Fees and perquiſites of the town clerks and pound keepers to be regulated in the April ſeſſions.

SCHEDULE.

Juſtice's Warrant to aſſemble the Inhabitants.

HOME DISTRICT. { *To the Conſtable for the Townſhip of in the ſaid Diſtrict.*

BY virtue of a power for ſuch purpoſe granted by a certain Act of the Legiſlature of this Province, made and paſſed in the thirty-third year of his preſent Majeſty's reign, to us A. B. Eſquire, and C. D. Eſquire, two of his Majeſty's juſtices of the peace in and for the ſaid diſtrict, theſe are to authorize and require you, giving eight days previous notice, to aſſemble the inhabitant houſeholders, paying or liable to pay to any public aſſeſſment or rate living within your pariſh or townſhip, to meet at on for the purpoſe of chooſing and nominating certain fit and proper perſons to ſerve the offices herein ſpecified for the enſuing year, that is to ſay, one town clerk, two aſſeſſors, one collector, two or more overſeers of the highways and roads, one or two pound-keepers, and two town wardens, according to the directions in the ſaid Act contained, and for ſo doing this ſhall be a ſufficient warrant.

Form of a warrant for a town meeting.

Given under our hands and ſeals at on the day of in the year of the reign of

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Conſtable's notice to be given on a nomination to an office by the juſtices.

HOME DISTRICT. Townſhip of } WHEREAS at a ſpecial ſeſſion for that purpoſe holden on the day of by A. B. Eſquire, and C. D. Eſquire, two of His Majeſty's juſtices of the peace for the ſaid diſtrict, you were by the ſaid juſtices nominated and appointed to ſerve the office of for the townſhip of for the year next enſuing, by virtue of a power to them for that purpoſe granted by a certain Act of the Legiſlature of this Province. Theſe are therefore to notify unto you, that unleſs you accept the ſaid office, and take the oath preſcribed, within ſeven days from the receipt of this notice, you ſhall for ſuch neglect or refuſal, forfeit and pay the ſum of forty ſhillings, as by the ſaid Act is directed.

Form of notice on a nomination by the juſtices.

Dated this day of in the year,

G. H. Conſtable.

To Mr. L. M.

JOHN GRAVES SIMCOE ESQUIRE, LIEUTENANT GOVERNOR.

CHAP. III.

An ACT to authorize and Direct the Laying and Collecting of Aſſeſſments and Rates, in every Diſtrict within this Province, and to Provide for the Payment of Wages to the Members of the Houſe of Aſſembly.

Preamble. WHEREAS it is neceſſary to make proviſion for defraying the expences of building a Court Houſe and Gaol, and keeping the ſame in repair, for the payment of gaolers ſalary, for the ſupport and maintenance of priſoners, for building and repairing houſes of correction, for the conſtruction and the repair of bridges, for the fees of the coroner and other officers, for the deſtroying of bears and wolves, and other neceſſary charges within the ſeveral diſtricts of this Province; Be it enacted by the King's Moſt Excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the aſſeſſors of every pariſh, townſhip, reputed townſhip or place within this Province, ſhall and they are hereby required as ſoon as conveniently may be after the paſſing of the preſent Act, and hereafter yearly and every year, within thirty days next after they ſhall be appointed to their office, to make out a true and complete return of every inhabitant houſeholder living within the limits of the ſaid pariſh, townſhip, reputed townſhip or place, and to divide each and every of them into eight different claſſes, in the following manner, that is to ſay:

The aſſeſſors to make out a liſt in eight claſſes of the inhabitant houſeholders within their reſpective townſhips.

1ſt claſs. II. That the firſt claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors to the beſt of their knowledge and judgment believe are poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of fifty pounds, and not amounting to one hundred pounds.

2d claſs. III. And that the ſecond claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors to the beſt of their knowledge and judgment believe, to be poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of one hundred pounds, and not amounting to one hundred and fifty pounds.

3d claſs. IV. And that the third claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors to the beſt of their knowledge and judgment believe, to be poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of one hundred and fifty pounds, and not amounting to two hundred pounds.

4th claſs. V. And that the fourth claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects to their

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own uſe, to the value of two hundred pounds, and not amounting to two hundred and fifty pounds.

VI. And that the fifth claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of two hundred and fifty pounds, and not amounting to three hundred pounds. 5th claſs.

VII. And that the ſixth claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors, to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of three hundred pounds, and not amounting to three hundred and fifty pounds. 6th claſs.

VIII. And that the ſeventh claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors, to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of three hundred and fifty pounds, and not amounting to four hundred pounds. 7th claſs.

IX. And that the eighth claſs do contain the names of ſuch houſeholders as aforeſaid, as the ſaid aſſeſſors, to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects to their own uſe, to the value of four hundred pounds and upwards; and that ſuch inhabitants as the ſaid aſſeſſors, to the beſt of their knowledge and judgment, believe not to be poſſeſſed of real or perſonal property, goods or effects, to the value of fifty pounds, ſhall be included in a liſt to be called the excuſed liſt. 8th claſs.

X. *And be it Enacted by the authority aforeſaid*, That the ſaid aſſeſſors ſhall and they are hereby required within ſix weeks from the time of their appointment, to make out a copy of ſuch their returns of all the inhabitant houſeholders within their reſpective pariſh, townſhip, reputed townſhip or place, ſo divided into claſſes as aforeſaid, with the names of the ſaid aſſeſſors thereunto ſubſcribed, and to preſent the ſame to two juſtices of the peace living within or next to ſuch pariſh, townſhip, reputed townſhip or place, for their conſideration and allowance, which they are to ſignify by ſigning the ſaid return, and ſuch allowance of the ſaid juſtices ſhall be a ſufficient warrant for the collectors of the ſaid pariſh, townſhip, reputed townſhip or place, to demand and receive from the ſaid inhabitant houſeholders the rates hereafter impoſed by virtue of this act, and the ſaid aſſeſſors ſhall cauſe the ſame to be fixed on the church door, or ſome other place of public reſort, in the ſaid pariſh, townſhip, reputed townſhip or place for general inſpection, and ſhall alſo tranſmit a copy of ſuch return, ſigned by the ſaid aſſeſſors, to the clerk of the peace of the reſpective diſtricts. A copy of the aſſeſſors returns, duly certified, to be the collectors warrant for levying rates. The ſame to be publiſhed, and a copy tranſmitted to the clerk of the peace.

XI. *And be it further Enacted by the authority aforeſaid*, That if any perſon ſhall be aggrieved by being included in any of the claſſes above mentioned, or ſhall have any material objection to any perſon being left out of any of the ſaid claſſes in ſuch return as aforeſaid, he may upon giving reaſonable notice to the An appeal for grievance and for omiſſions in the claſſes, ſhall be to the next general quarter ſeſſions.

the aſſeſſors in his own caſe, and to the party in caſe of any ſuch objection as aforeſaid, appeal to the next general quarter ſeſſions, and it ſhall and may be lawful for the ſaid juſtices to enquire into the matters aforeſaid, upon oath to be adminiſtered to the parties, if to the ſaid juſtices it ſhall appear to be needful, (which oath the ſaid juſtices are hereby impowered and authorized to adminiſter) and having enquired, to determine the ſame either by confirming or amending ſuch return, in ſuch manner only as ſhall be neceſſary to give relief in the matters complained of, and ſuch determination of the ſaid juſtices ſhall be final in all matters aforeſaid,

Rate to be paid by each inhabitant houſeholder of the firſt claſs and during what term.

XII. *And be it further Enacted by the authority aforeſaid*, That it ſhall and may be lawful for the collector of each pariſh, townſhip, reputed townſhip or place, and he is hereby authorized, to demand and receive yearly and each year for the ſpace of two years next enſuing the twenty-fifth day of March, which will be in the year of our Lord one thouſand ſeven hundred and ninety-four, of every inhabitant houſeholder, whoſe name ſhall be included in the firſt claſs aforeſaid, the ſum of two ſhillings and ſix pence, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 2d claſs.

XIII. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch ſecond claſs as aforeſaid, the ſum of five ſhillings, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 3d claſs.

XIV. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch third claſs as aforeſaid, the ſum of ſeven ſhillings and ſix-pence, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 4th claſs.

XV. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch fourth claſs as aforeſaid, the ſum of ten ſhillings, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 5th claſs.

XVI. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch fifth claſs as aforeſaid, the ſum of twelve ſhillings and ſix-pence, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 6th claſs.

XVII. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch ſixth claſs as aforeſaid, the ſum of fifteen ſhillings, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 7th claſs.

XVIII. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch ſeventh claſs as aforeſaid, the ſum of ſeventeen ſhillings and ſix-pence, as his rate

rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

Of the 8th claſs.

XIX. And alſo to demand and receive, for and during the time aforeſaid, of every inhabitant houſeholder, whoſe name ſhall be included in ſuch eighth claſs as aforeſaid, the ſum of twenty ſhillings, as his rate or proportion of the diſtrict aſſeſſment, to be levied for the uſes and purpoſes aforeſaid.

The collector to pay periodically into the hands of the diſtrict treaſurer, the monies ſo received, reſpectively, & to produce their books for inſpection, and to receive 3 per cent for collecting.

XX. *And be it further Enacted by the authority aforeſaid*, That the collector of each and every pariſh, townſhip, reputed townſhip or place, ſhall, and he is hereby required once in every three months to pay or cauſe to be paid to the treaſurer of the diſtrict, all ſuch monies as he ſhall have received under and by virtue of this act, and ſhall alſo produce the book or books of aſſeſſment for the examination of the ſaid treaſurer, and it ſhall and may be lawful for the ſaid treaſurer, upon being ſatisfied that all the monies to be received by virtue of this act, have been duly collected and paid or accounted for by the ſaid collector, to pay into the hands of the ſaid collector, the ſum of three pounds for every hundred pounds ſo by him collected and paid as aforeſaid, and at and after the ſame rate and proportion, for any ſum leſs than one hundred pounds, by him collected and paid, and the ſaid treaſurer ſhall and is hereby required to give a receipt for the monies ſo collected and paid over to him, which receipt ſhall be a good and ſufficient diſcharge to the ſaid collector, for the monies ſo collected and paid by him to the ſaid treaſurer.

Proviſion for the current year.

XXI. *Provided always, and be it enacted*, That for the purpoſes of the current year which will determine on the twenty-fifth day of March, one thouſand ſeven hundred and ninety-four, it ſhall and may be lawful, for the ſaid collectors, and they are hereby required, to demand and levy in manner herein after to be mentioned, from each and every inhabitant, according to the ſeveral claſſes in which they ſhall reſpectively be included, one half of the rate to be yearly aſſeſſed on each and every claſs according to the proportions herein before ſet forth, and that each and every perſon whoſe name ſhall be returned in the firſt claſs, ſhall pay for the purpoſes aforeſaid, the ſum of fifteen pence, that each and every perſon, whoſe name ſhall be returned in the ſecond claſs, ſhall pay for the purpoſes aforeſaid, the ſum of two ſhillings and ſix pence, that each and every perſon, whoſe name ſhall be returned in the third claſs, ſhall pay for the purpoſes aforeſaid, the ſum of three ſhillings and nine pence, and that each and every perſon, whoſe name ſhall be returned in the fourth claſs, ſhall pay for the purpoſes aforeſaid, the ſum of five ſhillings, and that each and every perſon, whoſe name ſhall be returned in the fifth claſs, ſhall pay for the purpoſes aforeſaid, the ſum of ſix ſhillings and three pence, and that each and every perſon, whoſe name ſhall be returned in the ſixth claſs, ſhall pay for the purpoſes aforeſaid, the ſum of ſeven ſhillings and ſix pence, and that each and every perſon, whoſe name ſhall be returned in the ſeventh claſs, ſhall pay for the purpoſes aforeſaid, the ſum of eight ſhillings and nine pence, and that each and every perſon, whoſe name ſhall be returned in the eighth claſs, ſhall pay for the purpoſes aforeſaid, the ſum of ten ſhillings.

XXII. *And be it further Enacted by the Authority aforeſaid*, That the ſaid collectors

The collectors to make out a book of account,

collectors shall make out a book of account, containing the names of each inhabitant householder, within their parish, township, reputed township, or place, who are liable to be charged with such assessment, divided into their respective classes, according to the returns made by such assessors as aforesaid, and that upon the payment of the rate so charged upon them in their several classes, the said inhabitant householders, and each of them may require the collector to write the word "paid," opposite to his or her name, and likewise to write down in figures the sum so paid in a ruled column or margin in such book to be made, and that such entry shall be a full and sufficient discharge to such inhabitant householder for the payment of the said rate.

entry therein in discharge of rate when paid.

The rate to be levied by distress on neglect or refusal of payment, after due notice.

XXIII. *And be it further Enacted by the Authority aforesaid*, That if any inhabitant householder shall refuse or neglect to pay the sum or rate, for which he stands classed and rated in manner aforesaid, by the space of fourteen days after demand duly made of the same by the said collector, such collector shall, and he is hereby required, to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, having first obtained a warrant for that purpose, under the hand and seal of some justice of the peace, within the said district, and to render the overplus, if any there shall be, after deducting the amount of the rate assessed and the charges of the distress and sale, to the owner thereof.

No collector to act without having entered into a bond with a sufficient surety.

XXIV. *And be it further Enacted by the Authority aforesaid*, That no collector of any parish, township, reputed township or place, shall be authorized to demand payment of any assessment or rate to be imposed upon any inhabitant householder by virtue of this Act, until after he shall have entered into a bond with a sufficient surety to the church or town wardens of the said parish, township, reputed township, or place, and their successors in the penal sum of one hundred pounds, that the said collector will duly and faithfully account and pay into the hands of the treasurer of the district, all and every sum or sums of money that he shall receive, on account of the said assessment and rates. Provided always, that the receipt of such treasurer shall be a sufficient discharge to all such collectors for the amount thereof, and shall be so far deemed and taken as evidence of the performance of the conditions in such bond or obligation to be contained.

A treasurer to be appointed by the justices in quarter sessions for their respective districts, to whom he shall give sufficient security.

XXV. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the said justices at their respective general quarter sessions, or the greater part of them, then and there assembled, to nominate and appoint a proper person, being resident in the said district, to be treasurer of the said district, which treasurer shall give sufficient security, in such sums, as shall be approved of by the said justices at their respective general quarter sessions, or the greater part of them, then and there assembled, to be accountable for the several sums of money which shall be respectively paid to him in pursuance of this Act, and to pay such sum or sums of money as shall be ordered to be paid by the justices in their general quarter sessions,

ſions, and alſo for the due and faithful execution of the truſt repoſed in him, and all and every ſuch ſum or ſums of money as ſhall be paid into his hands by virtue of and in purſuance of this Act, ſhall be deemed and taken to be the public ſtock of the diſtrict, and the ſaid treaſurer ſhall and is hereby required, to pay ſo much of the money in his hands, to ſuch perſon and perſons as the ſaid juſtices at their reſpective general quarter ſeſſions, or the greater part of them, then and there aſſembled, ſhall by their orders direct and appoint, for the uſes and purpoſes herein before recited, and for any other uſes and purpoſes to which the public ſtock of any diſtrict is or ſhall be applicable by law, reſerving at all and every time or times to and for his own uſe, and as a reward for his labor and expence, the ſum of three pounds for every hundred, that ſhall or may be paid into his hands by the ſaid collectors for the purpoſes aforeſaid.

In what manner and to what uſes the public ſtock of the diſtrict ſhall be applied.

Allowance of 3 per cent to the treaſurer, on monies received

XXVI. *And be it further Enacted by the Authority aforeſaid*, That the ſaid treaſurer ſhall, and is hereby required, to keep books of entries of the ſeveral ſums reſpectively received and paid by him in purſuance of this Act, and alſo to deliver in true and exact accounts upon oath, if required, (which oath, any one of the juſtices at their reſpective general quarter ſeſſions is hereby authorized to adminiſter) of all and every ſum or ſums of money reſpectively received and paid by him, diſtinguiſhing the particular uſes to which ſuch ſum or ſums of money have been applied, to the juſtices at every general quarter ſeſſions to be holden for the diſtrict, and ſhall lay before the juſtices of ſuch ſeſſion the proper vouchers for the ſame, and the diſcharges of the ſaid juſtices of the peace, or the greater part of them, by their orders made at their general quarter ſeſſions to ſuch treaſurer, ſhall be taken and allowed, as good and ſufficient acquittances to the full amount thereof.

Treaſurer to keep books of entries, and at every quarter ſeſſions to lay before the juſtices a ſtatement of his receipts and diſburſements.

XXVII. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the ſaid juſtices of the peace, at their general quarter ſeſſions aſſembled, or the greater part of them, from time to time, to continue ſuch treaſurer in his office ſo long as they ſhall ſee convenient, and to remove him at their pleaſure, and appoint any other perſon in his place.

Treaſurer to be continued, or removed, at pleaſure, by the juſtices in quarter ſeſſions.

XXVIII. *And be it further Enacted by the Authority aforeſaid*, That in order to make proviſion for the diſtrict aſſeſſment after the expiration of two years as aforeſaid, it ſhall and may be lawful for the juſtices of the peace, in their general quarter ſeſſions in the month of April aſſembled, or the greater part of them, to cauſe an eſtimate to be laid before them of the ſum or ſums of money that may be neceſſary, to defray the charges and expences accruing to their reſpective diſtricts, for the uſes and purpoſes aforeſaid, for the enſuing year, and having determined and reſolved upon the ſame, to cauſe the amount of the ſum to be raiſed, to be divided, in an exact proportion, to the rate with which each claſs is ſeverally charged, as herein before is provided, and to declare that the aſſeſſment required will be a half rate, a third, fourth, fifth, eighth, or any aliquot part of a rate, by computing the proportion, which the ſum propoſed to be raiſed bears to the amount of the ſum, which ſhall have been raiſed by the original rates of two ſhillings and ſixpence, five ſhillings, ten ſhillings, and twenty ſhillings, ſeverally impoſed

Proviſion for the future aſſeſſments, after the expiration of two years.

The fractional part of a rate to be aſſeſſed when it will ſuffice.

on each reſpective claſs as aforeſaid, and for that purpoſe to make a ſpecial order declaring the amount of the ſum intended to be raiſed, and ſpecifying the fractional part of the rate to be aſſeſſed and collected (in caſe it ſhall not be deemed neceſſary to impoſe an entire rate, according to the proportions aforeſaid) on each and every inhabitant houſeholder, according to their reſpective claſſes as aforeſaid, which order being ſigned by the ſaid juſtices in their general quarter ſeſſions in the month of April aſſembled, or the greater part of them, ſhall be binding upon each and every inhabitant houſeholder, in reſpect of the rate, with which he ſtands charged throughout this Province. And the high conſtable ſhall, at ſuch times as the ſaid juſtices by their order in ſeſſions ſhall direct, cauſe ſuch rates to be levied by a warrant under his hand, directed to the aſſeſſors and collector of every pariſh, townſhip, reputed townſhip or place within this Province.

No new aſſeſſment to be made, until 3-4ths of the preceding rate be expended.

XXIX. *And be it further Enacted by the Authority aforeſaid*, That no new aſſeſſment ſhall be made, until it ſhall appear to the juſtices at their reſpective general quarter ſeſſions, or the greater part of them, then and there aſſembled, by the accounts of their treaſurer or otherwiſe, that three-fourths of the money collected by virtue of the preceding rate, ſhall have been expended for the uſes and purpoſes mentioned in this Act.

The members of the houſe of aſſembly to be allowed wages for their attendance thereat,

XXX. And whereas, it was the ancient uſage of that part of *Great Britain* called *England*, for the ſeveral members repreſenting the counties, cities and boroughs therein, to receive wages for their attendance in Parliament; and whereas it ſeems expedient to adopt the ſame cuſtom in this Province; Be it therefore further enacted, that after every prorogation and diſſolution of the Aſſembly of this Province, it ſhall and may be lawful for every member thereof having attended, to receive from the ſpeaker of the Houſe of Aſſembly, a warrant under his hand and ſeal, ſignifying the time that ſuch member hath attended his duty in the ſaid Aſſembly, and every member poſſeſſed of ſuch warrant, ſhall and may aſk and demand of the juſtices of the peace for the diſtrict, in which the county or riding repreſented by ſuch member may be ſituate, in their general quarter ſeſſions aſſembled, a ſum not exceeding ten ſhillings per day, for every day that the ſaid member ſhall have been engaged in the attendance of his duty in the Houſe of Aſſembly; and have been neceſſarily abſent from his place of abode, in going to, or returning from his ſaid attendance, which ſum it ſhall and may be lawful for the ſaid juſtices to levy by aſſeſſment to be made on each and every inhabitant houſeholder in the ſeveral pariſhes, townſhips, reputed townſhips or places, within the county or riding repreſented by ſuch member, by virtue of and in purſuance of an order to be by the ſaid juſtices made for that purpoſe to the high conſtable of the diſtrict, who ſhall and may thereupon iſſue his warrant to the aſſeſſors of the ſeveral pariſhes, townſhips, reputed townſhips or places as aforeſaid, who ſhall aſſeſs the ſame by dividing the ſum to be aſſeſſed according to the rates and proportions as affixed to the ſeveral claſſes, in the return made as herein before mentioned, which rates ſhall

not exceeding 10s. per day,

the ſame to be raiſed within the reſpective counties or ridings, repreſented by the members,

be

be levied by the collector in manner herein before directed, and paid over to the ſaid member, and in caſe any perſon ſhall refuſe or neglect to pay his due proportion or rate ſo to be aſſeſſed as aforeſaid, by the ſpace of fourteen days after the ſame ſhall have been demanded of him by the ſaid collector, it ſhall and may be lawful for the ſaid collector to levy the ſame by diſtreſs and ſale of ſuch perſons goods and chattels, having firſt obtained a warrant for that purpoſe in manner herein before directed.

and by diſtreſs on neglect or refuſal of payment, after due notice.

SCHEDULE.

High Conſtable's Warrant to Levy the Rate.

To the Aſſeſſors and Collector of the Townſhip of in the ſaid Diſtrict.

Form of high conſtable's warrant to levy the rate.

WESTERN DISTRICT. } BY virtue of an order from his Majeſty's juſtices of the peace, in and for this diſtrict in their general quarter ſeſſions aſſembled, you are hereby required to raiſe the ſum of within your townſhip, in ſuch manner as by a certain Act of the Legiſlature of this Province, for that purpoſe, paſſed in the thirty-third year of his preſent Majeſty's reign, is directed, being the proportion of your townſhip (or pariſh) for and towards the general diſtrict aſſeſſment for defraying the expences of building a gaol and court houſe and keeping the ſame in repair, for the payment of the gaolers ſalary, for the ſupport and maintenance of priſoners, for building and repairing houſes of correction, for the conſtruction and repairing of bridges and other purpoſes in the ſaid Act mentioned, and hereof you are not to fail on the peril that ſhall enſue thereof.

Given under my hand this day of

A. H. High Conſtable.

Form of an Aſſeſſment.

Form of an aſſeſſment.

EASTERN DISTRICT. } AN aſſeſſment for defraying the expences of
Townſhip of } building a gaol and court-houſe and keeping the ſame in repair, for the payment of the gaolers ſalary, for the ſuppott and maintenance of priſoners, for building and repairing houſes of correction, for the conſtruction and repair of bridges and other purpoſes mentioned in an Act of the Legiſlature of this Province, of the thirty-third year of his preſent Majeſty, intituled, An Act to for the townſhip, or reputed townſhip, called in the county of made and aſſeſſed the day of

Claſs I. Containing the name of ſuch inhabitant houſeholders living within the townſhip aforeſaid, as we to the beſt of our knowledge and judgment, do believe are poſſeſſed of real or perſonal property, goods or effects, to the value of fifty pounds, and not amounting to one hundred pounds, and who

are severally and each to pay the sum of two shillings and six pence, in respect of their rate and proportion of the said assessment.

G. H.
I. K.
L. M. } First class: rate two shillings and six pence.

Class II. Containing the names of such inhabitant householders, living within the township aforesaid, as we to the best of our knowledge and judgment, believe are possessed of real or personal property, goods or effects to their own use, to the value of one hundred pounds, and not amounting to one hundred and fifty pounds, and who are severally and each to pay five shillings, in respect to their rate and proportion of the said assessment.

N. O.
P. Q.
R. S. } Second class: rate five shillings.

Class III. Containing, &c. Class VIII. Containing, &c.

Assessed by us { A. B. / C. D. } Assessors.

CHAP. IV.

An ACT *to regulate the laying out, amending and keeping in repair, the Public Highways and Roads within this Province.*

Preamble.

WHEREAS, the regulations hitherto in force in this Province, for laying out the public highways and roads, and amending and repairing the same, have been found insufficient, and much inconvenience and complaint have been occasioned thereby; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper-Canada*, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, a certain Ordinance passed in the seventeenth year of the reign of his present Majesty, intituled, "An Ordinance for repairing and amending the public highways and bridges, in the Province of "*Quebec*," shall be, and the same is hereby repealed.

Ordinance for repairing and amending highways and bridges repealed.

Justices within their respective divisions to be commissioners of highways.

II. *And be it further Enacted by the Authority aforesaid.* That each and every justice of the peace, acting under and by virtue of his Majesty's commission, shall be and they are hereby declared to be commissioners to lay out and regulate the highways and roads, within the respective counties, divisions or limits, in which they shall act, of the several districts within this Province.

III.

Appointment of the overſeers thereof.

III. *And be it further Enacted*, That the perſons to be employed as overſeers of the highways and roads, in every pariſh, townſhip or place within this Province, ſhall be nominated and appointed according to the proviſions for that purpoſe made, in a certain Act of the Legiſlature of this Province, intituled, "An Act to provide for the nomination and appointment of pariſh "and town officers within this Province."

Roads already laid out to be regulated by the commiſſioners, or altered on oath of a jury.

IV. *And be it Enacted by the Authority aforeſaid*, That the ſaid commiſſioners, or the major part of them, and they are hereby empowered and authorized, to regulate the roads already laid out, and if any of them ſhall appear to be inconvenient, and that an alteration be neceſſary, and the ſame be certified on oath, by twelve principal freeholders of the diſtrict, to be ſummoned by the high ſheriff, his deputy, or any conſtable of the diviſion, by virtue of a warrant to be iſſued by two juſtices of the peace for that purpoſe, the commiſſioners may alter the ſame, and alſo lay out ſuch other public highways and roads, as they or the major part of them, ſhall think moſt convenient, as well for travellers, as for the inhabitants of each neighboring pariſh, townſhip or place, which highways and roads, ſo laid out, ſhall be common public highways.

Width of roads to be laid out.

V. *And be it further Enacted by the Authority aforeſaid*, That the width of the roads hereafter to be laid out, ſhall be left to the diſcretion of the commiſſioners for the time being, of the pariſh, townſhip, or place, through which ſuch roads may paſs, ſo that the ſame be not leſs than thirty feet, and do not exceed ſixty feet: Provided always, That the front roads on the water, and between every conceſſion, ſhall in no caſe be leſs than ſixty feet.

Width of Bridges, and proviſion for the materials thereof.

VI. *And be it further Enacted by the Authority aforeſaid*, That all bridges hereafter to be built upon any public highway or road, within this Province, ſhall not be leſs than eighteen feet in width, and in order to provide materials for the ſame, it ſhall and may be lawful, for the ſaid overſeers, to direct the labourers performing ſuch duty, as herein after is mentioned, to cut down and make uſe of any trees ſtanding upon open and unimproved lands, that may be moſt convenient and beſt adapted to the building or repairing ſuch bridges.

Precaution in dangerous paſſes.

VII. *And be it further Enacted by the Authority aforeſaid*, That wherever any public highway or road, is or ſhall be laid out by any deep water, or dangerous precipice, that the overſeers, ſhall and are hereby required to cauſe good and ſufficient fences to be erected thereon, for the ſecurity of his Majeſty's ſubjects, and others, who may travel on the ſaid road. Provided alſo, and be it enacted, That where any road ſhall hereafter be laid out through incloſed or improved lands, it ſhall and may be lawful for the ſaid commiſſioners or the major part of them, to view the ſame, and to make an agreement with the owner or owners of ſuch incloſed or improved land for the recompence to be made for ſuch ground, and if the ſaid commiſſioners cannot agree with the ſaid owner or owners, or the ſaid owner or owners, ſhall refuſe to treat, or take ſuch recompence or ſatisfaction as ſhall be offered, then the juſtices of the peace, at any general quarter ſeſſions, to be holden for the limit wherein ſuch grounds ſhall lie, upon certificate in writing, ſigned by the commiſſioners

Manner of aſcertaining the recompence to be made to the owners of incloſed or improved lands, thro' which a road may be laid out.

commiſſioners making ſuch view aforeſaid, of their proceedings on the premiſes, and upon giving fourteen days notice in writing, to the owner or other perſon intereſted in the ſaid ground, or to his, her, or their agent, ſignifying an intention to apply to ſuch quarter ſeſſions, for the purpoſe of taking ſuch ground, ſhall impannel a jury of twelve diſintereſted men, out of the perſons returned to ſerve as jury men, at ſuch quarter ſeſſions, and the ſaid jury ſhall upon their oaths to the beſt of their judgment, aſſeſs the damages to be given, and recompence to be made to the owner or owners, or others intereſted as aforeſaid. Provided always, That all roads already marked, or laid out, in the Eaſtern Diſtrict of this Province, under the authority of any Commander in Chief, or under the authority of any former ordinance of the Province of *Quebec*, ſhall be and the ſame are hereby adopted and confirmed, and if any ſuch roads are not yet opened, the ſame ſhall be laid open under and by virtue of this act, and that no compenſation ſhall be made to any perſon or perſons through whoſe land the ſame may run: Provided always, that the ſaid roads be opened in the ſame direction that was originally marked out.

Exception as to the Eaſtern diſtrict.

Regulations in the diſpoſal of ground left vacant by the alteration of the road into a new direction.

VIII. *And be it further Enacted*, That in all caſes where it ſhall be found neceſſary, by the ſaid commiſſioners to alter the direction of any road or highway, ſo that the ground it formerly occupied ſhall become unneceſſary for public purpoſes, that then and in ſuch caſe, it ſhall and may be lawful for the ſaid commiſſioners, and they are hereby required to diſpoſe of the ſaid ground; and to that end, to cauſe a jury to be ſummoned by a warrant under their hands and ſeals, to eſtimate the value thereof, and the choice of firſt buying the ſame, according to ſuch valuation, ſhall be given to the owner of the lands adjoining, on each ſide of the ſaid road; but in caſe the lands ſhall belong to different owners, that then it ſhall be equally divided between them, if they ſhall be diſpoſed to purchaſe the ſame, and the monies ariſing from ſuch ſale, ſhall be applied towards indemnifying the owner or owners of the lands, as ſuch road or highway may paſs through by ſuch new direction; and ſuch ſale ſo made, ſhall be deemed valid and legal in all courts of law and equity within this Province.

Diviſion of townſhips, &c. to the overſeers, who ſhall ſuperintend the repairing of roads in their reſpective diviſions.

IX. *And be it further Enacted by the Authority aforeſaid*, That the ſaid commiſſioners for the time being, ſhall and may as they ſhall judge proper and neceſſary, divide their reſpective pariſhes, or townſhips into diviſions, which they ſhall allot to the overſeers of the highway, and the ſaid overſeers, ſhall ſuperintend, repair and keep in order, the highways, roads, ſtreets and bridges in their ſeveral diviſions, and the ſaid commiſſioners or the major part of them, may from time to time, order any overſeer to work upon any road or highway within his diviſion, as they ſhall think neceſſary, and the ſaid overſeer ſhall within ten days after having received ſuch order, ſummon ſuch perſons within his diviſion, as are obliged to perform duty or labour, and ſet them to work on ſuch part of the road or highway as they ſhall be directed to amend or lay out, and ſhall direct all perſons performing labour on the ſaid highways and roads, to deſtroy as much as may be in their power, all burrs, thiſtles, and other weeds, that are hurtful to the purpoſes of huſbandry, and in

Hurtful weeds to be deſtroyed.

caſe

caſe of any wilful neglect, every perſon neglecting or refuſing to obey ſuch orders, ſhall be ſubject to the like penalty as if he had been a wilful defaulter for that day, or for ſuch time as he ſhall have ſo neglected or refuſed, and if any overſeer ſhall refuſe or neglect to ſummon ſuch perſons as aforeſaid, and to ſet them to work on ſuch road or highway, as he ſhall be directed to lay out or amend, he ſhall for every ſuch neglect or refuſal, forfeit the ſum of twenty ſhillings, to be recovered in manner herein after to be ſet forth. Penalty.

X. *And be it further Enacted by the Authority aforeſaid*, That the overſeers for every pariſh, or townſhip, ſhall ſeverally make out and keep a liſt, of every perſon who is owner of a car, cart or team, within their diviſion, and likewiſe of all the inhabitants of ſuch diviſion, who are liable under the directions of this act, to work upon the highways, which liſt ſhall be ſubſcribed by the ſaid overſeers reſpectively, and delivered in to the commiſſioners of the diviſion to which they belong, within twenty days after they ſhall have been appointed overſeers as aforeſaid, and the ſaid overſeers for every pariſh, or townſhip, and each of them, ſhall carefully and diligently collect the ſeveral compoſitions, forfeitures, penalties and ſums of money directed and allowed to be received and taken within the ſame by virtue of this act, within the year for which he is appointed overſeer, and ſhall alſo keep one or more book or books, containing an account of the duty or labour done, compounded for, or unperformed by every perſon liable to diſcharge the ſame, and alſo a juſt, true and fair account to be verified on oath, if required (which oath the juſtices are hereby authorized to adminiſter) of all ſuch money as ſhall have come to his hands in reſpect of ſuch pariſh, or townſhip, by virtue of and for the purpoſes of this act, and to whom and on what occaſion, he ſhall have paid and applied the ſame, and alſo of the ſums of money, that ſhall then remain due and owing, from any perſon or perſons in reſpect of the payments, compoſitions, penalties, and forfeitures to be taken and received, for and in reſpect of the ſaid highways by virtue of this act, which book or books, ſhall be delivered in to the commiſſioners acting within their reſpective diviſions, at ſome ſpecial ſeſſions to be holden for that purpoſe in the month of March in every year, and if any overſeer, ſhall neglect or refuſe to deliver ſuch account, or to make ſuch oath if required, he ſhall forfeit and pay the ſum of twenty pounds, to be recovered and applied in manner herein after mentioned. Liſt to be kept by the overſeers. and delivered to the commiſſioners. Overſeers to collect compoſitions and fines, to keep an account of the duties performed by every perſon on the highways reſpectively, & account for the application of the monies ſo received. Penalty.

XI. *And be it further Enacted by the Authority aforeſaid*, That the roads and highways, in and through every pariſh, townſhip or reputed townſhip, ſhall be cleared, repaired and maintained by the inhabitants thereof, and that every perſon being a houſeholder or freeholder, ſhall either in perſon or by a ſufficient man in his ſtead, be obliged to work on the roads, and ſhall have and bring with him, one ſpade, pick-axe, bar, or ſuch other tool or inſtrument uſeful for the purpoſes aforeſaid, as ſhall be directed, for and during any ſpace of time, not exceeding twelve days in every year, allowing eight hours to each days work, and that every perſon within each pariſh, or townſhip, keeping a cart, plough, wain, waggon, or team of two horſes, oxen, or beaſts of draught, uſed to draw the ſame, ſhall ſend on every day to be appointed by the ſaid overſeer, a cart, wain, waggon, or team, and one able man to drive the. means for clearing, maintaining and repairing the highways. Implements. Carriages.

the same for any space of time not exceeding six several days in every year, to work on the highways, roads, streets or bridges, allowing eight hours to each days work, which said days work shall be held and taken as equivalent to two days personal labour, and if any labourer or driver shall refuse to work and labour, or to carry proper and sufficient loads during the time above mentioned, it shall and may be lawful for the said overseer to discharge such labourer, or driver, team and cart, and to receive from the said labourer or driver, or from the owner of such team and cart, the forfeiture which every such person or persons would have incurred by virtue of this act, in case such labourer had not attended, or such team, cart and driver had not been sent.

Space of time.

Penalty for insufficient discharge of duty.

Overseers to give notice of the time and place of performing such duty on the highways.

XII. *And be it further Enacted by the Authority aforesaid*, That each overseer shall from time to time give to every person, or leave, or cause to be left at the house or usual place of abode of every person within his division liable to perform the duty and labour by this act directed, three days notice at least of the day, hour and place, upon which each of the said day's duty shall be performed; and every person possessed of a wain, waggon, cart, carriage or team, having been duly summoned as aforesaid, and not having paid such composition as herein after is mentioned, who shall make default in sending such carriage and team with an able man to drive the same, or in performing the said duty, at the time and place to be notified to him in manner aforesaid, shall for every such default, forfeit and pay the sum of ten shillings; and that every housholder or freeholder, liable to such personal labour as aforesaid, having been duly summoned, and not having paid such composition as herein after is mentioned, who shall not appear or send a sufficient man in his stead with such tool or instrument, at such time or place, as by the said notice shall be directed, shall forfeit and pay for every such default, the sum of five shillings, all which forfeitures shall be applied to the use of the highways of the parish, or township respectively, in which such default shall have been made, and the said overseers shall fairly and equally demand and require such duty and labour from every person liable to perform the same, according to the directions of this act, without favour or partiality to any person or persons whatsoever, except in the cases of poor persons herein after mentioned, and every overseer shall and may and is hereby required with all convenient speed after default made as aforesaid, to proceed for the recovery of the penalties and forfeitures hereby inflicted, in manner herein after directed, so that the same may be recovered before he makes up his accounts, in the manner directed by this act.

Penalty for neglecting or disobeying such notice.

The duty to be equally required of all person, certain of the poor excepted.

Rates and manner of compounding for duty on the highways.

XIII. *Provided always, and it is hereby Enacted*, That any person liable to perform the said duty, by sending a carriage, cart and team, with a driver to the same, in manner aforesaid, shall and may compound for such duty, if he or she shall think fit, by paying to the said overseer, at the time and in the manner herein after mentioned, the sum of six shillings for each carriage, team and driver for each day, and that every freeholder or housholder, liable to perform such duty or labour as aforesaid, shall and may compound for the same,

ſame, if he ſhall think fit, by paying to the overſeer the ſum of three ſhillings, for and in lieu of every ſuch day's duty or labour, reſpectively, at the time and in the manner herein after directed. Provided always, that upon application to be ſigned by any two or more neighbouring houſeholders, to any two of his Majeſty's juſtices, made by any perſon having four children under the age of fourteen years, and not poſſeſſing more than two hundred acres of land, it ſhall and may be lawful for the ſaid juſtices, by an order under their hands and ſeals, to leſſen the duty or labour of ſuch perſons, according to the diſcretion of the ſaid juſtices.

The duty of certain perſons may be leſſened in the diſcretion of two juſtices.

XIV. *Provided always, and it is hereby further Enacted*, That the overſeers of every pariſh, townſhip or place, ſhall, on or before the third Sunday in the month of March, cauſe public written notice to be given in the church or chapel of ſuch pariſh, townſhip or place, and if there be no church or chapel, then at the moſt public place of meeting therein, of the time and place, when and where perſons permitted under the authority of this Act, and inclined to compound for the ſaid duty, may ſignify ſuch their intention to the ſaid overſeers, and all and every perſon ſignifying the ſame, who ſhall then, or within the ſpace of one calendar month after the date of ſuch notice, pay to the overſeer of his diviſion, the compoſition authorized and allowed by this Act, ſhall be diſcharged from the performance of ſuch duty, and the ſaid compoſition money ſhall be employed by the commiſſioners for the uſe of the highways, but in caſe the ſaid compoſition money be not paid within one month, the parties neglecting to pay the ſame, ſhall be conſidered defaulters, and ſhall be liable to the ſame forfeitures as they who ſhall make wilful default. Provided always, and be it enacted, That if it ſhall appear to the juſtices at any ſpecial ſeſſions, for the roads to be holden, that from the liberty herein before given for compounding for the performance of the ſtatute duty, there will be a difficulty in procuring the neceſſary carriages and teams in any particular pariſh, townſhip or place within their reſpective diviſions, without paying high and extravagant prices for the ſame, it ſhall and may be lawful for ſuch juſtices, to order and direct the team duty hereby required, or ſo much thereof as they ſhall think fit to be performed in kind, in ſuch pariſh, townſhip or place, except in reſpect of ſuch teams as belong to perſons not poſſeſſing more than two hundred acres of land within the ſame, and that it ſhall and may be lawful for ſuch juſtices in thoſe pariſhes, townſhips or places, where the price of daily labor exceeds the ſum of three ſhillings, to order and direct the perſons ſo exempted from performing the team duty, to perform the labor upon the ſaid highways in perſon, which order ſhall ſuperſede the power or liberty of compounding for labor, any thing herein before mentioned to the contrary notwithſtanding.

On the third Sunday in March or ſooner, the overſeers ſhall publiſh in writing, a notice to all perſons deſirous of compounding for their duties, ſpecifying the time and place of payment of ſuch compoſitions.

Power veſted in the juſtices to reſtrain, in certain caſes, the privilege of compounding.

XV. And whereas, the monies that may ariſe by fines and compoſitions may not be ſufficient for purchaſing materials and other neceſſaries for erecting and building bridges, and making ſuch other improvements on the public roads as cannot be accompliſhed by the ordinary ſtatute labor; Be it further enacted by the authority aforeſaid, That where the major part of the commiſſioners of the highways, acting within any diviſion, ſhall be of opinion that

Means of erecting bridges and completing other particu-

works on the roads, of public benefit to the district, when the eſtabliſhed duty and funds of the diviſion are inſufficient.

that a further ſum will be wanting to undertake any particular work of manifeſt general advantage, on the public highway, that they may certify the ſame by a writing ſubſcribed with their names, to the juſtices of the peace, in general quarter ſeſſions aſſembled, within their reſpective diſtricts, and may report to them an eſtimate of the additional ſum that may be required to complete ſuch work, and if it ſhall appear to the major part of the juſtices then and there aſſembled, that ſuch propoſed improvement or work will be of public benefit to the diſtrict, and that it is expedient to undertake the ſame, they may come to a reſolution to ſuch effect, and declare that they will take the matter into conſideration at the general quarter ſeſſion next enſuing, advertiſing ſuch reſolution in the public papers, or giving ſuch other notice thereof as they ſhall deem neceſſary, and in caſe it ſhall be deemed adviſeable by the greater number of the juſtices at ſuch ſubſequent quarter ſeſſion aſſembled, upon further conſideration that ſuch reſolution ſhould be confirmed, it ſhall and may be lawful for the ſaid juſtices, to order and direct that the ſum, provided the ſame do not exceed fifty pounds, be raiſed and collected either in the whole or by inſtallments, of and from the freeholders and inhabitants within the ſaid diſtrict, to be paid out of the diſtrict aſſeſſment for the ſaid diſtrict.

Penalty for altering, incumbering, or encroaching upon the highway.

XVI. *And be it further Enacted by the Authority aforeſaid*, That if any perſon or perſons ſhall alter, ſtop up, or in any wiſe incumber or encroach on any ſtreet, highway or road already laid out, or that ſhall be laid out by the commiſſioners aforeſaid, by laying timber or wood, or wilfully leaving any cart, waggon, carriage, plough, or any inſtrument of huſbandry, or any rubbiſh, dung or manure in any highway (excepting only with reſpect to ſuch waggon, cart or carriage, during ſuch reaſonable time, as the ſame ſhall be loading or unloading, and ſtanding as near the ſide of ſuch highway as conveniently may be) ſo as to intercept or hinder the free paſſage of any other carriage of his Majeſty's ſubjects, or ſhall pull down or deſtroy any fences that ſhall be put up, by virtue of this Act, he ſhall forfeit and pay for every ſuch offence the ſum of five ſhillings.

No tree ſtanding within thirty yards of the road to be henceforth girdled; and to be cut down if ſo, after the 1ſt of Sept. 1794, on notice.

XVII. *And be it further Enacted*, That after the paſſing of this Act, it ſhall not be lawful for any owner or occupier of lands adjoining to his Majeſty's highway or road, to girdle or cauſe to be girdled, any tree ſtanding upon ſuch lands within the diſtance of thirty yards, from the ſide of the ſaid road, and that from and after the firſt day of September, that will be in the year one thouſand ſeven hundred and ninety four, if any girdled tree or dead tree ſhall be found ſtanding within thirty yards of the ſaid road, it ſhall and may be lawful for any perſon, taking with him a credible witneſs, to give a verbal or written notice to the owner or occupier of the ſaid lands, to cut down or remove ſuch girdled or dead tree or trees, and in caſe any owner or occupier of the ſaid lands, ſhall neglect or refuſe to cut down or remove any ſuch tree by the ſpace of thirty days after ſuch notice as aforeſaid, he ſhall forfeit and pay the ſum of ten ſhillings, for every day that the ſaid tree ſhall be ſuffered to remain uncut or unremoved, after the expiration of ſuch period as aforeſaid, which penalty ſhall be levied and applied in manner and for the

Penalty for non-compliance.

purpoſes

purpoſes herein after mentioned; and alſo that from and after the ſaid firſt day of September, if any tree ſhall be cut down, or fall out of any incloſed land, into or acroſs any of the public highways, that the owner or occupier of ſuch incloſure, ſhall within the ſpace of twenty-four hours after the ſame ſhall be ſo fallen, remove the ſame, and if after ſuch notice thereof given to ſuch owner or occupier as aforeſaid, he ſhall neglect to remove ſuch tree out of the ſaid road by the ſpace of twenty-four hours, he ſhall forfeit and pay the ſum of ten ſhillings, for every day that the ſaid tree ſhall be unremoved, after receiving ſuch notice as aforeſaid.

Trees falling acroſs the road to be removed within twenty-four hours.

Penalty.

XVIII. *And be it further Enacted by the Authority aforeſaid*, That the penalties ſeverally inflicted by virtue of this Act, and all other fines and forfeitures accruing by virtue thereof, ſhall be levied and recovered by warrant under the hand and ſeal of ſome juſtice of the peace, acting within the diviſion, where ſuch refuſal or neglect ſhall have been made or offence committed, which warrant ſuch juſtice is hereby empowered and required to grant, upon conviction of the offender by confeſſion, or upon oath of one credible witneſs, of any offence committed againſt any one of the enactments or proviſions herein contained, and in default of payment of ſuch fines and forfeitures, to levy the ſame by diſtreſs and ſale of the goods and chattels of the perſon ſo offending; and that the produce of all compoſitions, penalties, fines and forfeitures, ſhall be applied towards the making or repairing of the public roads and bridges, within the pariſh, or townſhip where the ſame ſhall ariſe, and if any perſon ſhall refuſe to pay the ſum or ſums payable by virtue of this act, for neglecting or refuſing to obey the notice or ſummons of the overſeer, the ſame being duly ſerved within ten days after demand thereof made, ſuch ſum ſhall and may be levied by the overſeer, conſtable or any perſon authorized by warrant under the hand and ſeal of one juſtice of the peace acting within the ſaid diviſion, by diſtreſs and ſale of the goods and chattels of the perſon ſo refuſing or neglecting, rendering the overplus to the owner or owners thereof, the neceſſary charges of making ſuch diſtreſs and ſale being firſt deducted, and in default of ſuch diſtreſs, it ſhall and may be lawful for any ſuch juſtice to commit the perſon ſo refuſing to the common gaol, for any time not exceeding one month, unleſs the penalty, forfeiture, coſts and charges, ſhall reſpectively be ſooner by him paid.

Proceſs for recovering penalties.

the ſame in default of payment to be levied by diſtreſs

application thereof.

Penalty for refuſing the overſeers ſummons

to be levied by diſtreſs, and in default thereof, the party to be impriſoned.

XIX. And in order to prevent as much as poſſible any inconvenience to perſons liable to work upon the road, Be it further enacted by the authority aforeſaid, That it ſhall and may be lawful for the ſaid juſtices in the ſaid pariſhes, townſhips or places reſpectively, to appoint two periods or times in the year, within which no ſtatute duty upon the roads ſhall be performed; namely, one month in the ſpring, commencing upon the twentieth day of April, and ending upon the twentieth day of May; and three months in the ſummer, commencing upon the firſt day of July, and ending upon the firſt day of October in every year.

Periods of the year within which the duty on the roads may be ſuſpended.

XX. *And be it further Enacted by the Authority aforeſaid*, That after every fall of ſnow, by which any principal highway leading through this Province, ſhall or may be obſtructed and the paſſage through the ſame thereby interrup-

Methods of opening a paſſage through the roads when

Obstructed by a fall of snow,

ted or hindered, it shall and may be lawful for the overseers of the towns, townships or parishes, through which the said highway may run, and they are hereby required to order and direct such and so many as they shall deem necessary of the freeholders or householders next adjoining the same, being possessed of a sleigh, or sledge and team, to open a free passage through the said highway, by driving or causing their sleigh or sledge to be driven over and through the said highway.

And of making the roads by stakes or beacons, when requisite.

XXI. And whereas it often happens, that after falls or drifts of snow, the highways through several parts of this Province, are so covered over, as to leave no visible tract or path to guide travellers, particularly where the said highways pass through extensive cleared fields, (or for the sake of shortening the communication in the winter) over and along rivers or bodies of frozen water; Be it therefore enacted by the authority aforesaid, That in such cases it shall and may be lawful for the overseers, and they are hereby required, to warn and direct the householders and freeholders in such parishes, townships or places respectively, to erect or set up stakes or beacons on each side of the said highway, road or common path, so as to direct travellers, particularly at night and in bad weather; and any householder or freeholder neglecting or refusing to obey such summons, and perform such duty or labour, shall be liable to the same penalties, fines and forfeitures as those neglecting to perform their proportion of duty or labour on the highway, as herein before mentioned, and to be recovered in like manner.

Penalty.

Two or more justices may hold any special sessions for the purposes of this act.

XXII. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for any two or more justices of the peace within their respective divisions, and they are hereby empowered from time to time, whenever they shall judge proper, to hold any special sessions besides that which is herein before directed in the month of March, for executing the purposes of this Act, and to adjourn the same from time to time, as they shall think fit, causing notice to be given of the time and place of holding such special sessions and of the adjournments thereof, to the several justices acting and residing within such limits, by the constable or other proper officer within the same.

Actions founded on things done in pursuance of this act, to be commenced within three months.

XXIII. *Provided always, and be it further Enacted*, That if any action or suit, shall be commenced against any person or persons for any thing done or acted in pursuance of this Act, then and in every such case, such action or suit shall be commenced or prosecuted within three calendar months after the fact committed and not afterwards, and the defendant or defendants in any such action or suit shall and may plead the general issue, 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 the present act, and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, then the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall become non-suit or discontinue his, her or their action, after the defendant or defendants shall have appeared, the defendant or defendants shall and may recover

Plaintiff to pay treble costs on non-suit or discontinuing.

treble

treble coſts, and have the like remedy for the recovery thereof, as in any other caſes by law.

Perſons ſeiſed of lands, and abſent from the province to pay 20 s. annually for their duty, chargeable on their lands.

XXIV. *And be it further Enacted by the Authority aforeſaid*, That any perſon who ſhall be ſeized of two hundred acres of land or more within this Province, and ſhall not reſide in the ſaid Province, or have any tenants or tenant reſident on his ſaid lands; ſuch perſon ſhall be liable to pay the ſum of twenty ſhillings per annum, to be applied towards keeping in repair the King's highway, and the ſaid ſum ſhall be chargeable on ſuch lands as aforeſaid, and they ſhall be liable for payment of the ſame, for ſo long as they ſhall remain unoccupied, or be the property of any perſon not reſiding within the Province aforeſaid.

CHAP. V.

An ACT *to confirm and make valid certain Marriages heretofore contracted in the country now comprized within the Province of* Upper Canada, *and to provide for the future Solemnization of Marriage within the ſame.*

Preamble.

WHEREAS many marriages have been contracted in this Province, at a time when it was impoſſible to obſerve the forms preſcribed by law for the ſolemnization thereof, by reaſon that there was no Proteſtant Parſon or Miniſter duly ordained reſiding in any part of the ſaid Province, nor any conſecrated Proteſtant church or chapel within the ſame, and whereas the parties having contracted ſuch marriages, and their iſſue may therefore be ſubjected to various diſabilities, in order to quiet the minds of ſuch perſons, and to provide for the future ſolemnization of marriage within this Province, Be it enacted and declared by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the marriage and marriages of all perſons, not being under any canonical diſqualification to contract matrimony, that have been publicly contracted before any magiſtrate or commanding officer of a poſt, or adjutant, or ſurgeon of a regiment, acting as chaplain, or any other perſon in any public office or employment, before the paſſing of this Act, ſhall be confirmed and conſidered to all intents and purpoſes as good and valid in law, and that the parties who have contracted ſuch marriage, and the iſſue thereof, may become ſeverally entitled to all the rights and benefits, and ſubject to all the obligations ariſing from marriage and conſanguinity, in as full and ample a manner, as if the ſaid marriages had reſpectively been ſolemnized according to law.

Marriages heretofore contracted, before any perſon in public employment, declared valid,

and the iſſue thereof legitimate.

II. *And be it further Enacted by the Authority aforeſaid*, That in order to enable thoſe perſons who may be deſirous of preſerving the teſtimony of ſuch marriage and of the birth of their children, to effectuate the ſame, it ſhall and may

Method of preſerving the teſtimony of ſuch marriages.

may be lawful at any time within three years from the paſſing of this Act, for any magiſtrate of the diſtrict where any ſuch parties as may have contracted matrimony as aforeſaid, ſhall reſide, at the requeſt of either of the ſaid parties, to adminiſter the following oath to the huſband:

Oath of the huſband.

"*I A. B. do ſolemnly ſwear in the preſence of Almighty God, that I did publicly intermarry with C. D. at on the day of in the year of our Lord and that there is now living iſſue of the ſaid marriage (as the caſe may be)*

T. B. born on the day of
M. B. born on the day of

And to adminiſter the following Oath to the Wife:

Oath of the wife.

"*I C. D. do ſolemnly ſwear in the preſence of Almighty God, that I did publicly intermarry with A. B. at on the day of in the year of our Lord and that there is now living iſſue of the ſaid marriage (as the caſe may be)*

T. B. born on the day of
M. B. born on the day of

manner of entering the ſame of record;

Which form of atteſtation ſhall be ſubſcribed by the parties, and certified under the hand and ſeal of the magiſtrate adminiſtering the ſaid oath, who ſhall be entitled to demand and receive one ſhilling for ſuch certificate, and that it ſhall and may be lawful for the clerk of the peace of the diſtrict to enter and record, and he is hereby required, upon the payment of the ſum of two ſhillings to enter and record ſuch atteſtation, duly certified as aforeſaid, in a book or regiſter to be by him kept for that purpoſe; and that ſuch regiſter or an atteſted copy thereof, which copy the ſaid clerk, is hereby required to make out, and on the payment of the ſum of two ſhillings to deliver to any perſon requeſting the ſame, ſhall be held and taken as ſufficient evidence of ſuch marriage, and the birth of ſuch children in all his Majeſty's courts of law and equity.

the regiſter of ſuch record, or an atteſted copy thereof to be ſufficient evidence.

Regulations for the future celebration of marriages.

III. *And be it further Enacted by the Authority aforeſaid*, That until ſuch time as there ſhall be five parſons or miniſters of the church of England, ſeverally incumbent or doing duty on and in their reſpective pariſhes or place of reſidence in any one diſtrict within this Province, ſuch parties as are not under any canonical diſability, and are deſirous of intermarrying with each other, and neither of them living within the diſtance of eighteen miles of any parſon or miniſter of the church of England, may apply to any neighbouring juſtice of the peace within the diſtrict, and declare the ſame, whereupon it ſhall and may be lawful for the ſaid juſtice, to cauſe to be affixed in ſome public place within the townſhip or pariſh wherein the parties reſide, or if they ſhould reſide in different townſhips or pariſhes, then in the moſt public place within each of the ſaid townſhips or pariſhes, a notice in the following form, for which he ſhall be entitled to receive one ſhilling, and no more;

Circumſtances under which it may be lawful for a juſtice to ſolemnize marriage.

Where-

Public notice.

"Whereas A. B. of and C. D. of are desirous of intermarrying with each other, and there being no parson or minister of the church of England living within eighteen miles of them or either of them, all persons who know any just impediment why they should not be joined in matrimony, are to give notice thereof to E. F. esquire, of , one of his Majesty's justices of the peace for the district."

And if no valid objection shall have been made to such intended marriage when three Sundays have intervened after the publication of the said notice, it shall and may be lawful for the said magistrate to proceed to solemnize the marriage, according to the form prescribed by the church of England, and to give to the parties a certificate thereof, in the following form, for which he shall be entitled to receive the sum of one shilling, and no more:

Form of the church of England to be followed.

Certificate of marriage.

"Whereas A. B. of and C. D. of were desirous of intermarrying with each other, and there being no parson or minister of the church of England, living within eighteen miles of them or either of them, they have applied to me for that purpose; now these are to certify, that in pursuance of the powers granted by an Act of the Legislature of this Province, passed in the thirty-third year of his Majesty's reign, I A. B. one of his Majesty's justices of the peace, having caused the previous notice by the statute required to be given, have this day married the said A. B. and C. D. together, and they are become legally contracted to each other in marriage."

The same to be signed by the parties and by two or more persons present,

and on application to be registered by the clerk of the peace.

Which certificate shall be signed by the parties, and also by any two or more persons present at the said marriage, and such marriage shall be good and valid in law to all intents and purposes whatever. And that upon application for that purpose made, the clerk of the peace for the said district shall and may, and he is hereby required to register the said certificate in a book for that purpose by him to be kept, and that it shall and may be lawful for him to demand and receive the sum of two shillings for registering the same, and that such register, or an attested copy thereof, which the said clerk is hereby required to make and deliver to any person requesting the same, and paying for it the sum of two shillings, shall be held and taken to be sufficient evidence of such marriage in all his Majesty's courts of law and equity.

Persons counterfeiting, or procuring to be counterfeited the evidence of any marriage, to suffer, on conviction, fine and imprisonment.

IV. *And be it further Enacted by the Authority aforesaid*, That if any person shall after the passing of this Act, make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or act or assist in falsely making, altering, forging or counterfeiting, any such certificate of marriage as herein before is required to be given, or shall knowingly and wilfully insert or cause to be inserted in such register book to be kept in each district any false entry of any matter or thing relating to any marriage, or act or assist in falsely making, altering, forging any such entry in such register; or utter or publish as true, any such false, forged, altered, or counterfeit certerficate or register as aforesaid, or a copy thereof, knowing such certificate or register of marriage respectively to be false, altered, forged, or counterfeited, or shall wilfully destroy or cause or procure to be destroyed any register-book

of

of marriages or any part of such register book, with an intent to avoid any marriage, every person so offending, and being thereof lawfully convicted, shall for such offence suffer such fine and imprisonment as to the court shall seem meet, provided such imprisonment be in the common gaol of the district, for a term not less than twelve calendar months.

Eventual determination & period of the powers vested in justices to solemnize marriage.

V. *Provided always*, That when and so soon as there shall be five parsons or ministers of the church of England, severally incumbent and doing duty, within their respective parishes or places of residence, in any one district within this province, that the authority herein before given to the justices of the peace, within such district for the purposes aforesaid, shall cease and determine, and to the end that it may become publicly known when such a number of parsons or ministers are incumbent within any district, it shall and may be lawful for the governor, lieutenant governor or person administering the government of this province, and he is hereby required to give notice thereof, by an instrument under his hand and seal to the first general quarter sessions to be holden for the said district, certifying that there are five parsons or ministers of the church of England, severally incumbent, and doing duty, within their respective parishes, or places of abode in the said district, and that therefore the provisions herein before made, authorizing the justices of the peace to solemnize matrimony, have ceased and determined within the said district, which said instrument shall be publicly read before the justices in quarter sessions assembled, and kept and preserved by the clerk of the peace, among the records of the said district, and from and after the publication of such notice, it shall not be lawful for any justice of the peace within such district, to perform the marriage ceremony; and if any justice of the peace within the district where such notification shall have been made in manner aforesaid, shall after the publication thereof, knowingly and wilfully pretend to perform the marriage ceremony, between any persons under or by virtue of the powers of this act, or under any pretence whatever, he shall for every such offence, forfeit and pay the sum of twenty pounds, one moiety thereof to his Majesty, his heirs and successors for the public uses of the province, and the support of the government thereof, and the other moiety to any person who shall sue for the same by action of debt, plaint, bill or information, in any of his Majesty's courts of record within this province, and such pretended marriage so performed, shall be null and void to all intents and purposes whatever.

Method of ascertaining such event.

Penalty for solemnizing marriage after such event,

and the marriage to be void.

No valid objection to a marriage, it's not being celebrated in a church or chapel.

VI. *And be it further Enacted by the Authority aforesaid*, That it shall be no valid objection to the legality of any marriage heretofore solemnized by any parson or minister, either by licence, or after due publication of banns, or hereafter to be solemnized in manner aforesaid, or by any justice of the peace, duly authorized under the provisions of this act, that the same was not solemnized in a church or chapel duly consecrated, nor shall any such marriage on account thereof, be held or taken to be illegal.

Promulgation of this act.

VII. *And be it further Enacted by the Authority aforesaid*, That this act shall be publicly read in the several districts of this province, at the opening of the general quarter sessions of the peace for each district, that shall be holden next after

after the paſſing thereof, and once in every year for two years following, at the quarter ſeſſions to be holden in the month of January.

CHAP. VI.

An ACT *to fix the Times and Places of holding the Courts of General Quarter Seſſions of the Peace within the ſeveral Diſtricts of this Province.*

Preamble.

WHEREAS it is neceſſary to fix the times and places for holding the courts of general ſeſſions of the peace within the ſeveral diſtricts in this Province; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, the ſeveral courts of general ſeſſions of the peace within this province, reſpectively, ſhall commence and be holden at the times and places hereinafter mentioned, yearly and in every year, that is to ſay—That the courts of general quarter ſeſſions of the peace for the Eaſtern diſtrict of this Province, ſhall commence and be holden in *New Johnſtown*, on the ſecond Tueſday in the month of October, and on the ſecond Tueſday in the month of April; and in the town of *Cornwall*, on the ſecond Tueſday in the month of January, and on the ſecond Tueſday in the month of July.

Time and place of holding the quarter ſeſſions in the Eaſtern diſtrict.

II. *And be it Enacted*, That the courts of general quarter ſeſſions of the peace for the Midland diſtrict of this Province, ſhall commence and be holden in *Adolphus Town*, on the ſecond Tueſday in the month of July, and on the ſecond Tueſday in the month of January; and in *Kingſton*, on the ſecond Tueſday in the month of April, and on the ſecond Tueſday in the month of October.

In the Midland diſtrict.

III. *And be it Enacted*, That the courts of general quarter ſeſſions of the peace for the Home diſtrict of this Province, ſhall commence and be holden in the town of *Newark*, on the ſecond Tueſday in the month of July, on the ſecond Tueſday in the month of October, on the ſecond Tueſday in the month of January, and on the ſecond Tueſday in the month of April.

In the Home diſtrict.

IV. *And be it Enacted*, That the courts of general quarter ſeſſions of the peace for the Weſtern diſtrict of this Province, ſhall commence and be holden in the town of *Detroit*, on the ſecond Tueſday in the month of July, on the ſecond Tueſday in the month of October, on the ſecond Tueſday in the month of January, and on the ſecond Tueſday in the month of April.

In the Weſtern Diſtrict.

V. *And be it further Enacted*, That a court of ſpecial ſeſſions of the peace ſhall commence and be holden, yearly and in every year, in the town of *Michilimackinac*, on the ſecond Tueſday in the month of July.

Special ſeſſions at Michilimackinack.

CHAP. VII.

An ACT *to prevent the further introduction of Slaves, and to limit the Term of Contracts for Servitude within this Province.*

Preamble.

WHEREAS it is unjuſt that a people who enjoy freedom by law ſhould encourage the introduction of ſlaves, and whereas it is highly expedient to aboliſh ſlavery in this Province, ſo far as the ſame may gradually be done without violating private property; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, ſo much of a certain Act of the parliament of *Great Britain*, paſſed in the thirtieth year of his preſent Majeſty, intituled, "An Act for encouraging new ſettlers in his Majeſty's colonies and plantations in *America*," as may enable the governor, or lieutenant governor of this Province, heretofore parcel of his Majeſty's Province of *Quebec*, to grant a licence for importing into the ſame any Negro or Negroes, ſhall be, and the ſame is hereby repealed; and that from and after the paſſing of this Act, it ſhall not be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, to grant a licence for the importation of any Negro, or other perſon to be ſubjected to the condition of a ſlave, or to a bounden involuntary ſervice for life, into any part of this Province; nor ſhall any Negro, or other perſon who ſhall come or be brought into this Province after the paſſing of this Act, be ſubject to the condition of a ſlave, or to ſuch ſervice as aforeſaid, within this Province, nor ſhall any voluntary contract of ſervice or indentures that may be entered into by any parties within this Province, after the paſſing of this Act, be binding on them, or either of them, for a longer time than a term of nine years, from the day of the date of ſuch contract.

Recital of Act 30 Geo. III.

The ſame in part repealed.

Proviſions againſt the further introduction of ſlaves.

Term of ſervitude by contract limited.

II. *Provided always*, That nothing herein contained ſhall extend, or be conſtrued to extend to liberate any negroe, or other perſon ſubjected to ſuch ſervice as aforeſaid, or to diſcharge them or any of them from the poſſeſſion of the owner thereof, his or her executors, adminiſtrators or aſſigns, who ſhall have come or been brought into this province, in conformity to the conditions preſcribed by any authority for that purpoſe exerciſed, or by any ordinance or law of the province of *Quebec*, or by proclamation of any of his Majeſty's Governors of the ſaid province for the time being, or of any Act of the Parliament of *Great Britain*, or ſhall have otherwiſe have come into the poſſeſſion of any perſon, by gift, bequeſt or *bona fide* purchaſe before the paſſing of this Act, whoſe property therein is hereby confirmed, or to vacate or annul any contract for ſervice that may heretofore have been lawfully made and entered into, or to prevent parents or guardians from binding out children until they ſhall have obtained the age of twenty-one years.

The owners of ſlaves at preſent within the Province, confirmed in their property therein.

Nothing herein to extend to contracts for ſervice already made, nor to parents or guardians.

III.

The children that ſhall be born of female ſlaves, to remain in the ſervice of the owner of their mother until the age of 25 years, when they ſhall be diſcharged.

III. And in order to prevent the continuation of ſlavery within this province, *Be it Enacted by the Authority aforeſaid*, That immediately from and after the paſſing of this Act, every child that ſhall be born of a negro mother, or other woman ſubjected to ſuch ſervice as aforeſaid, ſhall abide and remain with the maſter or miſtreſs, in whoſe ſervice the mother ſhall be living at the time of ſuch child's birth (unleſs ſuch mother and child ſhall leave ſuch ſervice, by and with the conſent of ſuch maſter or miſtreſs) and ſuch maſter or miſtreſs ſhall, and is hereby required to give proper nouriſhment and cloathing to ſuch child or children, and ſhall and may put ſuch child or children to work, when he, ſhe or they ſhall be able ſo to do, and ſhall and may retain him or her in their ſervice until every ſuch child ſhall have attained the age of twenty five years, at which time they and each of them ſhall be intitled to demand his or her diſcharge from, and ſhall be diſcharged by ſuch maſter or miſtreſs, from any further ſervice. And to the end that the age of ſuch child or children may be more eaſily aſcertained, the maſter or miſtreſs of the mother thereof, ſhall and is hereby required, to cauſe the day of the birth of every ſuch child as ſhall be born of a Negro or other mother, ſubjected to the condition of a ſlave, in their ſervice as aforeſaid, to be regiſtered within three months after its birth, by the clerk of the pariſh, townſhip or place wherein ſuch maſter or miſtreſs reſide, which clerk ſhall be authorized to demand and receive the ſum of one ſhilling, for regiſtering the ſame. And in caſe any maſter or miſtreſs ſhall refuſe or neglect to cauſe ſuch regiſter to be made, within the time aforeſaid, and ſhall be convicted thereof, either on his or her confeſſion, or by the oath of one or more credible witneſs, or witneſſes, before any juſtice of the peace, he or ſhe ſhall, for every ſuch offence, forfeit and pay the ſum of five pounds, to the public ſtock of the diſtrict.

Birth of the children of ſlaves to be recorded.

Penalty for neglecting or refuſing to record the ſame.

Remedy againſt the undue detention of ſuch children.

IV. *And be it further Enacted by the Authority aforeſaid*, That in caſe any maſter or miſtreſs ſhall detain any ſuch child born in their ſervice as aforeſaid, after the paſſing of this Act, under any pretence whatever, after ſuch ſervant ſhall have attained the age of twenty-five years, except by virtue of a contract of ſervice, or indentures, duly and voluntarily executed, after ſuch diſcharge as aforeſaid, it ſhall and may be lawful for ſuch ſervant to apply for a diſcharge to any of his Majeſty's juſtices of the peace, who ſhall and is hereby required thereupon to iſſue a ſummons to ſuch maſter or miſtreſs, to appear before him to ſhew cauſe, why ſuch ſervant ſhould not be diſcharged, and the proof that ſuch ſervant is under the age of twenty-five years, ſhall reſt upon and be adduced by the maſter or miſtreſs of ſuch ſervant; otherwiſe it ſhall and may be lawful for the ſaid juſtice to diſcharge ſuch ſervant from ſuch ſervice as aforeſaid. Provided always, That in caſe any iſſue ſhall be born of ſuch children, during their infant ſervitude, or after, ſuch iſſue ſhall be intitled to all the rights and privileges of free born ſubjects.

Proviſion for the iſſue of the children of ſlaves.

V. *And be it further Enacted*, That whenever any maſter or miſtreſs ſhall liberate or releaſe any perſon ſubject to the condition of a ſlave from their ſervice, they ſhall at the ſame time, give good and ſufficient ſecurity to the church or town wardens of the pariſh or townſhip where they live, that the perſon ſo releaſed by them ſhall not become chargeable to the ſame, or any other pariſh or townſhip.

Security to be given on liberating a ſlave.

CHAP. VIII.

An ACT *to eſtabliſh a Court of Probate in this Province, and alſo a Surrogate Court in every Diſtrict thereof.*

Preamble.

WHEREAS it is expedient to eſtabliſh a court for the purpoſe of granting probate of wills and committing letters of adminiſtration of the goods of perſons dying inteſtate, having perſonal eſtate within this Province; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act, paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That there be conſtituted and eſtabliſhed, and there is hereby conſtituted and eſtabliſhed, a court with full power and authority to iſſue proceſs and hold cognizance of all matters relative to the granting of probates, and committing letters of adminiſtration, and to grant probates of wills, and commit letters of adminiſtration of the goods of perſons dying inteſtate, having perſonal eſtate, rights and credits within this Province, to be called and known by the name of the Court of Probate of the Province of *Upper-Canada*, and that the governor, lieutenant governor, or perſon adminiſtering the government thereof, ſhall preſide in the ſaid court, to hear, give, order or decree, or pronounce judgment in all queſtions, cauſes or ſuits that may be brought before him, relative to the matters aforeſaid, and that for ſuch purpoſe he may from time to time, when he ſhall be ſo diſpoſed, call ſuch perſon or perſons as he ſhall think proper, to be aſſeſſor or aſſeſſors with him, and that it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government in this Province, to nominate and appoint from time to time, an official principal of the ſaid court, together with a regiſter and ſuch officers as may be neceſſary for the exerciſe of the juriſdiction to the ſaid court belonging.

Conſtitution and juriſdiction of the court of probate.

Inſtitution of a ſurrogate court in each diſtrict.

2. And whereas it will be convenient for the inhabitants of this Province to be enabled to obtain probate of wills, and letters of adminiſtration within their ſeveral diſtricts; Be it enacted by the authority aforeſaid, That it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government in this Province, to inſtitute, and he is hereby authorized to inſtitute by commiſſion under the great ſeal of this Province, in each and every diſtrict thereof, a court for the purpoſe of granting probate of wills, and letters of adminiſtration of the goods of perſons dying inteſtate, having perſonal eſtate within the limits of each diſtrict reſpectively, which courts ſhall be ſeverally called and known by the names of the Surrogate Court of the Eaſtern diſtrict, the Surrogate Court of the Midland diſtrict, the Surrogate Court of the Home Diſtrict, and the Surrogate Court of the Weſtern diſtrict, and alſo to appoint from time to time, a ſurrogate to preſide as judge in each of the ſaid courts, to hear, give, order, or decree, or pronounce judgment in all queſtions, cauſes or

ſuits,

ſuits, that may be brought before him, relative to the ſaid matters, and alſo from time to time, to nominate and appoint a fit and proper perſon to be regiſter, and alſo ſuch officers as may be neceſſary for the exerciſe of the juriſdiction to the ſaid courts belonging, and that each and every of the ſaid courts ſhall have full power and authority to iſſue proceſs and hold cognizance of all matters relative to the granting of the probate of wills and letters of adminiſtration, and to grant probate of wills, and commit letters of adminiſtration of all and ſingular the goods and effects, rights and credits of perſons dying inteſtate, within the limits of their reſpective diſtricts, except in the caſes herein after mentioned.

When teſtator or inteſtate dies poſſeſſed of chattels or credits in different diſtricts, probate of the will and letters of adminiſtration ſhall be granted by the court of probate only.

3. *Provided always*, That in all caſes where a teſtator or inteſtate ſhall die poſſeſſed of goods, chattels or credits to the amount of five pounds in any diſtrict, other than that in which he uſually reſided at the time of his deceaſe, or when any teſtator or inteſtate ſhall die poſſeſſed of goods to the value of five pounds, in two or more ſeveral diſtricts within this Province, the probate of ſuch will and letters of adminiſtration of the goods and effects of ſuch perſon ſhall be granted by the Court of probate only, and not by any ſurrogate court.

Seal of each of the ſaid courts,

4. And in order to give due authenticity to the Acts and proceedings of the ſaid ſeveral courts, Be it Enacted by the Authority aforeſaid, That each of the ſaid courts be provided with a ſuitable ſeal; that on the ſeal of the court of probate be inſcribed the name of the Province, and on the ſeveral ſeals of the ſurrogate courts the name of the diſtrict, over which its juriſdiction extends, and that a particular deſcription of ſuch ſeals be reſpectively ſent to the office of the Secretary of the Province to be kept among the records of the Province.

A deſcription whereof to be ſent to the ſecretary's office.

Oath of the ſurrogate.

5. *Provided always*, That no perſon ſhall be intitled or qualified to enter upon or execute the office of ſurrogate in any of the courts ſo to be eſtabliſhed, until after he ſhall have taken the following oath:

"*I* A. B. *do ſolemnly promiſe and ſwear, that I will honeſtly and impartially execute the office of* *according to the beſt of my knowledge and ability.* "So HELP ME GOD."

And that no perſon ſhall be intitled or qualified to act as a regiſter in any of the ſaid courts until after he ſhall have taken the following oath:

Oath of the regiſter.

"*I* A. B. *do promiſe and ſwear, that I will diligently and faithfully execute the office of* *and that I will not knowingly permit or ſuffer any alteration, obliteration or deſtruction to be made or done by myſelf or others, on any wills or teſtamentary papers committed to my charge.* "So HELP ME GOD."

Every will or teſtementary paper to be kept as recorded in court, and the tranſcript thereof duly ſealed to be held a ſufficient probate.

6. *And be it Enacted by the Authority aforeſaid*, That every will or teſtamentary paper, which ſhall be duly proved, approved and inſinuated in the court of probate, or in any ſurrogate court within this Province, ſhall be kept and preſerved among the records of the ſaid court, and that a tranſcript thereof duly authenticated under the ſeal of the ſaid court, ſhall be taken and received as the regular probate of ſuch will or teſtamentary paper, ſo far as the ſame may regard the diſpoſal of any perſonal eſtate or effects, in all and every of his Majeſty's courts within this Province, or wherever it may be neceſſary to produce the ſame.

7. *And*

Circumſtances required to render nuncupative wills good.

7. *And be it Enacted by the Authority aforeſaid*, That from and after the paſſing of this Act, no nuncupative will, ſhall be good where the eſtate thereby bequeathed ſhall exceed the value of thirty pounds, that is not proved by the oaths of three witneſſes at the leaſt, that were preſent at the making thereof, nor unleſs it be proved that the teſtator at the time of pronouncing the ſame, did bid the perſons preſent or ſome of them bear witneſs that ſuch was his will, or to that effect, nor unleſs ſuch noncupative will were made at the time of the laſt ſickneſs of the deceaſed, and in the houſe of his or her habitation or dwelling, or where he or ſhe hath been reſident for the ſpace of ten days or more, next before the making of ſuch will, except when ſuch perſon was ſurprized or taken ſick being from his own home, and died before he returned to the place of his or her dwelling.

Period of time within which proof of nuncupative wills is admiſſible.

8. *And be it further Enacted by the Authority aforeſaid*, That after ſix months paſſed after the ſpeaking of the pretended teſtamentary words, no teſtimony ſhall be received to prove any will nuncupative, except the ſaid teſtimony or the ſubſtance thereof were committed to writing within ſix days after making the ſaid will.

Preliminary meaſures to be taken, previous to granting probate of nuncupative wills.

9. *And be it further Enacted by the Authority aforeſaid*, That no letters teſtamentary, or probate of any nuncupative will ſhall paſs the ſeal of any court till fourteen days at the leaſt after the deceaſe of the teſtator be fully expired, nor ſhall any nuncupative will be at any time received to be proved, unleſs proceſs have firſt iſſued to call in the widow or next of kindred of the deceaſed, to the end that they may conteſt the ſame, if they ſhall be ſo adviſed

Proof to be adduced of the demiſe of an inteſtate.

10. *And be it Enacted by the Authority aforeſaid*, That no letters of adminiſtration ſhall be granted by the court of probate, or by any ſurrogate court, of the goods, chattels or credits of any perſon repreſented as having died inteſtate, until due proof be made before the ſaid judge or ſurrogate, to his ſatisfaction, that ſuch perſon is dead, and died inteſtate.

Steps to be taken in granting adminiſtration to perſons not next of kin.

11. *And be it further Enacted by the Authority aforeſaid*, That when application is made for letters of adminiſtration of the goods, chattels and credits of any perſon dying inteſtate, by any perſon or perſons not intitled to the ſame as next of kin to the inteſtate, the judge of the court of probate, or the ſurrogate to whom ſuch application ſhall be made, ſhall before the granting of the adminiſtration, iſſue a citation to the next of kin to the inteſtate, ſummoning him or her to appear, and ſhew cauſe, if any they have, why the adminiſtration ſhould not be granted to the perſon or perſons ſo applying, which citation ſhall be ſerved upon the next of kin to the inteſtate, reſiding within this Province, and if the next of kin, nor any perſon of the kindred of the inteſtate ſhall happen to reſide in this Province, then a copy of ſuch citation ſhall be affixed up in ſome public place in the town where the inteſtate did reſide at the time of his death, at leaſt ten weeks before the return thereof, and in caſe ſuch inteſtate did not reſide within this Province at the time of his death, then a copy of the citation ſhall be publiſhed in the *Upper Canada* Gazette, once in every month during the ſpace of eight months before the return thereof. Provided always, that in caſe the perſon next of kin uſually reſiding within this Province, and regularly intitled to adminiſter, ſhould happen to be abſent from the Province, it ſhall

and

and may be lawful for the judge of probate, or ſurrogate, within the limits of his diſtrict, to grant a temporary adminiſtration, to the next of kin who ſhall be in the Province, of the inteſtate, during a limited time, or to be revoked upon the return and application of ſuch neareſt of kin as aforeſaid, and for that purpoſe to take ſufficient bonds from the party to whom ſuch temporary adminiſtration ſhall have been granted, for the ſurrender of ſuch letters of adminiſtration, and to account for the ſame, in manner herein-after to be mentioned.

Temporary adminiſtration.

12. *And be it further Enacted by the Authority aforeſaid,* That the judge of probate, and every ſurrogate in his ſeveral diſtrict, ſhall and may upon their reſpective granting and committing letters of adminiſtration of the goods of perſons dying inteſtate, take ſufficient bonds of the reſpective perſon or perſons to whom any adminiſtration is to be committed, with two or more able ſureties, reſpect being had to the value of the eſtate, in the name of the Governor, Lieutenant Governor, or Perſon adminiſtering the government of the ſaid Province, or with the condition in form and manner following, *mutatis mutandis.* The condition of this obligation is ſuch, that if the within bounden A. B. adminiſtrator of all and ſingular the goods, chattels and credits of C. D. deceaſed, do make or cauſe to be made, a true and perfect inventory of all and ſingular the goods, chattels and credits of the ſaid deceaſed, which have or ſhall come into the hands, poſſeſſion or knowledge of him, the ſaid A. B. or into the hands and poſſeſſion of any other perſon or perſons for him, and the ſame ſo made, do exhibit or cauſe to be exhibited into the regiſtry of court, on or before the day of next enſuing, and the ſame goods, chattels and credits, and all other the goods, chattels and credits of the ſaid deceaſed, at the time of his death, which at any time after ſhall come into the hands or poſſeſſion of the ſaid A. B. or into the hands and poſſeſſion of any other perſon or perſons for him, do well and truly adminiſter according to law, and further do make or cauſe to be made, a true and juſt account of his ſaid adminiſtration, at or before the day of and all the reſt and reſidue of the ſaid goods, chattels and credits, which ſhall be found remaining upon the ſaid adminiſtrators account, the ſame being firſt examined and allowed by the judge of the court, for the time being, ſhall deliver and pay unto ſuch perſon or perſons reſpectively, as the ſaid judge by his decree or ſentence, conformably to the proviſions in a certain Act of Parliament, intituled, "An Act for the better ſettling inteſtate eſtates," and paſſed in the twenty-ſecond and twenty-third year of the reign of Charles II. and alſo in a certain Act paſſed in the firſt year of King James II. contained, ſhall limit and appoint, and if it ſhall hereafter appear, that any laſt will or teſtament was made by the deceaſed, and the executor or executors therein named do exhibit the ſame unto the ſaid court, making requeſt to have it allowed and approved accordingly, if the ſaid A. B. within bounden, being thereunto required, do render and deliver the ſaid letters of adminiſtration (approbation of ſuch teſtament being firſt had and made) in the ſaid court, then this obligation to be void and of none effect, or elſe to remain in full force and virtue; which bonds are hereby declared and enacted to be good and binding to all intents and purpoſes, and pleadable in any courts of juſtice.

Bonds to be taken of the perſons to whom adminiſtration ſhall be granted.

Form and conditions of ſuch bonds.

Such bonds pleadable.

13. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and

Method of making diſtribution of the

ceeds of an inteſtate's eſtate.

and may be lawful for the ſaid judge of probate and ſurrogate reſpectively, and they are hereby enabled to call by citation under the ſeal of their ſeveral courts, ſuch adminiſtrators to account, for and touching the goods of any perſon dying inteſtate within their ſeveral juriſdictions, and upon hearing, and due conſideration thereof, to order and make juſt and equal diſtribution of what remaineth clear, after all debts, funeral and juſt expences of every ſort, firſt allowed and deducted, according to the proviſions in the ſaid ſtatutes herein before mentioned, contained. Provided always, to the end that a due regard be had to creditors, that no ſuch diſtribution of the goods of any perſon dying inteſtate be made, until after one year be fully expired, after the inteſtate's death; and that ſuch and every one, to whom any diſtribution and ſhare ſhall be allotted, ſhall give bonds with ſufficient ſureties, in the ſaid courts, that if any debt or debts truly owing by the inteſtate, ſhall be afterwards ſued for and recovered, or otherwiſe made to appear, that then and in every ſuch caſe, he or ſhe ſhall reſpectively refund and pay back to the adminiſtrator, his or her rateable part of ſuch debt or debts, and of the coſts of ſuit, and charges of the adminiſtrator by reaſon of ſuch debt, out of the part and ſhare ſo as aforeſaid allotted to him or her, thereby to enable the ſaid adminiſtrator to pay and ſatisfy the ſaid debt and debts, ſo diſcovered after the diſtribution made as aforeſaid.

After the term of one year.

Security to be given the adminiſtrator, againſt demands which may ariſe after diſtribution.

Proceſs of the ſaid courts, reſpectively, in caſes of diſobedience or contempt.

14. And in order to enforce, when it ſhall be neceſſary, due reſpect and obedience to the proceſs, orders, ſentence or decree of the ſaid courts, in all matters within their cognizance, Be it Enacted by the Authority aforeſaid, That it ſhall and may be lawful for the ſaid judge of the court of probate, and his ſurrogates within their reſpective diſtricts, and they are hereby authorized upon application made and ſupported by certificate from the regiſter or proper officer, of any neglect of, or diſobedience to the regular proceſs, order or ſentence of the court, or upon any complaint to be verified upon oath by any apparitor, officer, or other perſon, of any wilful contempt or reſiſtance to the regular proceſs, or ſentence of the ſaid courts or any of them, or to the ſervice thereof, to proceed againſt the parties, ſo withſtanding, diſobeying or offending, by attachment, to be directed to the ſheriff of the diſtrict, who is hereby authorized and required to execute the ſame; and in caſe the ſheriff return that the party is not found in his diſtrict, that the ſaid courts and each of them may iſſue a proclamation directed to the ſheriff of the diſtrict, which he is hereby authorized and required to make, that the ſaid party do on his allegiance perſonally appear in the ſaid court, on a day in the ſaid proclamation to be named; and in caſe the ſheriff return that the party is not found, and he do not appear at the time and place as commanded, that the ſaid courts, and each of them may proceed to a ſequeſtration of the perſonal effects, goods and chattels of the ſaid party in contempt, to be directed to certain perſons to detain and keep the ſame, until the ſaid contempts be cleared or the court make order to the contrary.

Attachment.

Sequeſtration of the perſonal eſtate.

In adminiſtration granted with a will annexed, it ſhall be expreſsly conditioned,

15. *And be it further Enacted by the Authority aforeſaid*, That in all caſes where any adminiſtration ſhall be granted with a will annexed either by the judge of the court of probate in this Province, or by any ſurrogate of any diſtrict of this Province, ſuch letters ſhall contain an expreſs proviſion or condition

condition that the will of the deceaſed in ſuch teſtament expreſſed, ſhall be obſerved and performed, and for ſuch purpoſe that bonds with two or more able and ſufficient ſureties, ſhall be taken of the reſpective perſon or perſons to whom ſuch adminiſtration ſhall be committed in ſuch penalties as to the judge or ſurrogate ſhall appear reaſonable, reſpect being had to the value of the eſtate of the ſaid teſtator, which condition may be as follows: "The condition of this obligation is ſuch, that if the above bounden , adminiſtrator (or adminiſtratrix as the caſe may be) of all and ſingular the goods, chattels and credits of the ſaid , deceaſed, with the will of the ſaid , annexed, and not adminiſtered by (as the caſe may be) do make or cauſe to be made a true and perfect inventory of all and ſingular the goods, chattels and credits of the ſaid , deceaſed, which ſhall have come to the hands, poſſeſſion or knowledge of the ſaid , or into the hands and poſſeſſion of any other perſon for the ſaid , and the ſame ſo made do exhibit or cauſe to be exhibited (where ſuch bond ſhall be taken by the judge of the court of probate) into the regiſtry of the court of probate of this Province, or into the office of the ſurrogate of the diſtrict of , at or before the expiration of ſix calendar months from the date of the above written obligation, and the ſame goods, chattels and credits, and all other goods, chattels and credits of the ſaid deceaſed, at the time of his or her death, which at any time after ſhall come into the hands and poſſeſſion of the ſaid , or into the hands and poſſeſſion of any other perſon or perſons for the ſaid , do well and truly adminiſter according to the directions and true intentions of the teſtator or teſtratrix (as the caſe may be) expreſſed in the will to the letters of adminiſtration granted to the ſaid , annexed, as the law directs, and further when thereunto lawfully required, do make, or cauſe to be made a true and juſt account of adminiſtration, then this obligation to be void and of none effect, or elſe to remain in full force and virtue.—Which bonds, ſhall be of the ſame force and effect and may be proſecuted upon the like occaſions and for the purpoſes, and in the ſame manner as the bonds taken upon the granting of adminiſtrations of perſons dying inteſtate, herein before ſet forth.

that ſuch will ſhall be performed.

Form and condition of bond to be entered into in ſuch caſe.

Force and effect of ſuch bond.

16. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for all perſons who may be aggrieved by any order, ſentence, judgment or decree, of any ſurrogate court within this Province, to appeal from the ſame or any part thereof, to the judge of the court of probate, who ſhall have full power and authority, and hereby is authorized and required to examine, hear and finally determine all ſuch appeals, and all matters concerning the ſame, and to reverſe, affirm or alter ſuch order, ſentence, judgment or decree, and to make ſuch other order or decree therein, as juſtice and equity ſhall require, and thereupon to remit the ſame, with his order, judgment or decree in the premiſes, and all things concerning the ſame, into the court ſo appealed from. Provided always, that all ſuch appeals from the ſaid ſurrogate court, ſhall be made within fifteen days next after making or giving the order, ſentence, judgment or decree ſo appealed from, and upon ſecurity being given to the ſatisfaction of the ſaid ſurrogate, for proſecuting ſuch appeal, ſuch order, ſentence, judgment or decree, ſhall be ſuſpended. Provided always, that no appeal ſhall be had or lie from any ſuch order, judgment, ſentence or decree, of any ſurrogate court, unleſs the value of the goods, chattels, rights or credits to be affected by ſuch order, judgment, ſentence or decree, ſhall be more than fifty pounds.

An appeal to lie from the ſurrogate courts to the court of probate.

if made within fifteen days next after judgment below.

and that the value of the rights affected exceeds fifty pounds.

Terms of ſitting of the ſaid courts.

17. And in order that certain ſtated times be fixed for the hearing and determining all motions, petitions, pleadings, ſuits and cauſes reſpecting the matters aforeſaid, that may be brought before the ſaid court of probate, or the ſaid ſurrogate courts: Be it enacted by the authority aforeſaid, That four terms, or times of ſeſſion be appointed in each and every year for the purpoſes aforeſaid, the firſt term to be holden from the firſt Monday in January to the Saturday of the ſame week incluſive; the ſecond to be holden from the laſt Monday in March, to the Saturday of the ſame week incluſive; the third to be holden from the firſt Monday in June to the Saturday of the ſame week incluſive; and the fourth term to be holden from the laſt Monday in September to the Saturday of the ſame week.

Fees to be taken,

18. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful for the members and officers of the ſaid courts to demand and take the following fees:

OFFICIAL PRINCIPAL AND SURROGATE.

				Registers.		
	£.	s.	d.	£.	s.	d.
by the official principal ſurrogate, and regiſter, For ſeal to the probate of a will, to letters of adminiſtration with the will annexed, and to letters of adminiſtration, where the property devolving is under £300.	0	16	0	0	6	8
From 300 to 1000l.	1	0	0	0	6	8
When above 2000l.	2	0	0	0	6	8
For ſeal of the court to any writing or inſtrument	0	13	4	0	3	4
For receiving caveat	0	6	8	0	0	0
For filing the ſame	0	0	0	0	3	4
For receiving inventory	0	6	8	0	0	0
For filing the ſame	0	0	0	0	3	4
For citation	0	3	4	0	1	0
For collating will	0	0	0	0	6	8
For drawing bond and atteſting execution	0	0	0	0	6	8
For ſearching regiſter each year	0	0	0	0	1	0
For office copy each page 18 lines, 6 words in each	0	0	0	0	1	0

APPARITOR OR MESSENGER.

by the apparitor or meſſenger, For ſervice of citation	0	2	0
For travelling, each mile	0	0	4

CHAP. IX.

An ACT *to authorize the Lieutenant Governor, to nominate and appoint certain Commiſſioners for the purpoſes herein mentioned.*

MAY IT PLEASE YOUR EXCELLENCY,

Preamble.

WE his Majeſty's moſt dutiful and loyal ſubjects the members of the houſe of Aſſembly of the Province of *Upper Canada*, having taken into our ſerious conſideration the meſſage communicated to us by your Excellency, together with the reſolution of the Houſe of Aſſembly of his Majeſty's Province of *Lower Canada*, bearing date the ſixth day of May, of the preſent year one thouſand ſeven hundred and ninety-three, and being anxious to eſtabliſh that generous intercourſe which ſhould always ſubſiſt between members of the ſame Empire, do moſt earneſtly requeſt your Excellency, that for the mutual convenience

ence and benefit of his Majeſty's ſubjects within the provinces of *Upper Canada* & *Lower Canada*, and in order to promote and confirm a good correſpondence between them, it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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", and by the authority of the ſame, That it ſhall and may be lawful for the governor, lieutenant governor or perſon adminiſtering his Majeſty's government in this Province from time to time, by letters patent, under the great ſeal of the Province, to commiſſion, authorize and empower three able and diſcreet perſons, to treat, conſult and agree with an equal number of perſons to be duly authorized for that purpoſe, by a power to be granted by an Act of the Legiſlature of his Majeſty's Province of *Lower Canada*, of and concerning the eſtabliſhing ſuch regulations as may regard the collection of duties or payment of drawbacks to be impoſed or allowed on goods paſſing from one Province into the other, by the Legiſlature of each Province reſpectively, and of and concerning any proportion to be received and paid, of any equal duties already impoſed or hereafter to be impoſed by the ſaid legiſlatures reſpectively, on any article or commodity paſſing from one Province into the other, and of and concerning any regulations, proviſions, matters and things which may regard the commerce, manufactures or produce of the ſaid Province.

Three fit perſons to be commiſſioned to treat and agree in behalf of this Province,

with a like number of perſons in behalf of the province of Lower Canada, of and concerning regulations of mutual expediency.

II. *Provided always, and be it enacted and declared*, That no regulation, proviſion, matter or thing ſo propoſed, treated, conſulted, or agreed, ſhall have any other force or effect, or be carried further into execution, until the ſame ſhall have been confirmed by the legiſlature of this Province.

But their proceedings to have no force or effect until confirmed by the legiſlature.

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

Determination of this Act.

CHAP. X.

An ACT *to eſtabliſh a Fund for Paying the Salaries of the Officers of the Legiſlative Council and Aſſembly, and for defraying the Contingent Expences thereof.*

Preamble.

WHEREAS it is neceſſary to eſtabliſh a fund for defraying the ſalaries of the different officers of the legiſlative council and aſſembly, together with the contingent expences thereof, we your Majeſty's moſt dutiful and loyal ſubjects, the repreſentatives of the people of the Province of *Upper-Canada*, in aſſembly met, do moſt humbly beſeech your Majeſty, that it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," That from and after the paſſing

Additional duties and rates to be levied on wines.

passing of this Act, there shall be raised, levied, collected and paid unto his Majesty, his heirs and successors, over and above all other duties by any Act of parliament of *Great Britain*, now payable in this Province, upon the respective wines herein after mentioned, which shall be imported or brought into any part of this Province, the several rates and duties following, that is to say;—

On Madeira.

For every gallon (wine measure) of wine of the growth or produce of the island of Madeira, which shall or may be legally imported from any port, place or country whatsoever, *four pence.*

On all other wines.

For every gallon (wine measure) of other wine of the growth or produce of any other country whatever, which shall or may be legally imported from any port, place or country whatsoever, *two pence.*

Specie in which such duties shall be payable.

II. *And it is hereby further Enacted by the Authority aforesaid*, That the said rates and duties imposed by this Act, shall be deemed and are hereby declared to be current money of this Province, payable at and after the rate of five shillings the Spanish dollar, or in other silver or gold coin, as nominally proportioned thereunto by the laws of this Province enacted, or to be enacted, and the same duties shall be levied, collected, paid and recovered in the same manner and form, in the said courts, and by such rules, ways and means, and under such penalties and forfeitures, as any other duties payable to his Majesty, upon any goods imported into this Colony or Province, under any Act or Acts of the parliament of *Great Brttain* hitherto enacted, and as fully and effectually as if the several clauses of the said Act or Acts of parliament were herein particularly repeated and enacted, and all the monies that shall arise by such duties, may be received by the collector of his Majesty's customs of the Province of *Lower Canada*, and shall be paid by him into the hands of his Majesty's receiver general of *Upper Canada*, as treasurer of this Province for the time being, according to such arrangements as shall be made and agreed upon, under and by virtue of the powers and provisions granted by a certain Act, intituled, "An Act to authorize the lieutenant governor to nominate and appoint certain commissioners for the purposes herein mentioned."

Means of levying the same and all penalties and forfeitures.

Into whose hands the same shall be paid.

Application of the monies arising thereby.

III. *And it is hereby further Enacted by the same Authority*, That all such monies as shall be paid as aforesaid, to the receiver general as treasurer of this Province, shall be by him paid and applied for the purposes before set forth in this Act, and in discharge of such warrant or warrants as shall for that purpose be from time to time issued by his excellency the governor or lieutenant governor, or person administering the government of this Province for the time being, and not otherwise; and the duties aforesaid, together with all fines, forfeitures, penalties and confiscations that shall be incurred under this Act, shall be accounted for to his Majesty, through the commissioners of his Majesty's treasury for the time being, in such manner and form as his Majesty shall direct.

Determination of this Act.

IV. *And be it further Enacted by the Authority aforesaid*, That this Act shall remain and be in force for the space of two years from and after the passing thereof, and no longer.

CHAP. XI.

An ACT *to encourage the destroying of Wolves and Bears in different parts of this Province.*

Preamble.

WHEREAS the inhabitants in many parts of this Province, have suffered and continue to suffer great injury and damage from wolves and bears;

Be

Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, all and every perſon or perſons, who ſhall kill or cauſe to be killed any wolf or wolves, bear or bears, and who ſhall after the death thereof take or cauſe to be taken the head or heads of ſuch wolf or wolves, bear or bears, before any one of his Majeſty's juſtices of the peace, acting within the diviſion where ſuch town, townſhip or pariſh, where the ſaid wolf or wolves, bear or bears, ſhall have been killed, ſhall be, and make oath before the ſaid juſtice, that the ſaid wolf or wolves, bear or bears, was or were killed within the ſaid town, townſhip or pariſh, or within five miles of any inhabited place next adjoining the ſaid town, townſhip or place, which oath the ſaid juſtice is hereby authorized and empowered to adminiſter, the ſaid juſtice having firſt deſtroyed the ſaid head or heads, ſhall give to ſuch perſon or perſons a certificate of the fact or facts, having been proved to his ſatisfaction, and ſuch certificate being preſented to the treaſurer of the diſtrict, ſhall authorize the perſon or perſons obtaining and preſenting the ſame, to aſk for, demand and receive of and from the ſaid treaſurer, the ſum of twenty ſhillings for every head of every wolf ſo taken and preſented, and for every head of every bear ſo taken and preſented as aforeſaid, the ſum of ten ſhillings. Provided always, That nothing herein contained ſhall extend or be conſtrued to extend the ſaid reward to any Indian or Indians, who ſhall kill or cauſe to be killed, any wolf or bear, wolves or bears as aforeſaid.

Method of recovering the reward for killing a wolf or bear.

Reſpective rewards for killing the ſame.

Exception as to Indians.

II. *Provided always, and be it hereby Enacted by the Authority aforeſaid*, That this Act ſhall not extend nor be conſtrued to extend to the Weſtern diſtrict of this Province, nor have any force or operation whatſoever therein.

And as to the Weſtern diſtrict.

CHAP. XII.

An ACT *to provide for the Appointment of Returning Officers of the ſeveral Counties within this Province.*

Preamble.

WHEREAS the powers at preſent ſubſiſting for the appointment of perſons to execute the office of returning officer in each of the diſtricts, counties or circles and towns or townſhips in this Province, are limited to a certain period which will ſoon expire, and whereas it is neceſſary to make further proviſion for the appointment of ſuch officers; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government for the time being, from time to time to nominate and appoint by an inſtrument

In what manner returning officers ſhall be, in future, appointed.

instrument under his hand and seal at arms, a proper person to execute the office of returning officer, for every county or riding, division or town within the Province.

Shall not be compelled to serve for any longer time than one year.

II. *Provided always, and it is hereby Enacted*, That no person shall be obliged to execute the office of returning officer for any longer time than one year, unless he shall be disposed to continue to execute the same, by and with the consent and approbation of the said governor, lieutenant governor, or person administering the government for the time being.

Determination of this Act.

III. *Provided also, and be it hereby Enacted by the Authority aforesaid*, That this Act shall continue in force for and during the space of seven years, and no longer.

CHAP. XIII.

An ACT *to establish a further Fund for the Payment of the Salaries of the Officers of the Legislative Council and House of Assembly, and for defraying the Contingent Expences thereof.*

Preamble.

WHEREAS by a certain Act of the Parliament of Great Britain, passed in the fourteenth year of his Majesty's reign, intituled, "an Act for establishing a fund towards further defraying the charges of the administration of justice and support of the civil government, within the Province of Quebec, in North America," it was therein, amongst other things enacted, "That from and after the fifth day of April, one thousand seven hundred and seventy-five, there should be raised, collected and paid into his Majesty's Receiver General of the Province, for the use of his Majesty, his heirs and successors, a duty of one pound sixteen shillings, sterling money of Great Britain, for every licence that should be granted by the Governor, Lieutenant Governor, or Commander in Chief of the said Province, to any person or persons, for keeping a house or other place of public entertainment, or for retailing wine, brandy, rum, or other spirituous liquors, within the said Province." And whereas it is necessary that the said revenue should be increased for the purpose of paying the salaries of the officers of the Legislative Council and House of Assembly, and for defraying the contingent expences thereof:

We your Majesty's most dutiful and loyal subjects, the representatives of the people of the Province of Upper Canada, in assembly met, do most humbly beseech your Majesty, that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled, by virtue of and under the authority of an Act, passed in the Parliament of Great Britain, 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," That in addition to the said sum of one pound sixteen shillings sterling as aforesaid, which shall still be and continue to be levied, collected and paid as it hitherto has been levied, collected and paid, by virtue of the Act aforesaid, there shall be raised and levied, collected and paid, under the same restrictions and penalties, in the said Act contained, unto his Majesty's Receiver General to and for the use of his Majesty, his heirs and successors, and to and for the use of this Province, and towards the support of the civil government thereof, the further

An additional duty of twenty shillings to be levied on all licences for the retail of wines

sum

ſum of twenty ſhillings currency, upon every licence that ſhall be granted by virtue of this Act in manner following; that is to ſay, that from and after the fifth day of April, which will be in the year of our Lord one thouſand ſeven hundred and ninety-four, it ſhall and may be lawful for the Governor, Lieutenant Governor, or perſon adminiſtering the government, by or through the Secretary of the Province, or other perſon empowered to iſſue licences for the vending of wines, brandy, rum or other ſpirituous liquors, to aſk for, demand and receive over and above the ſum of one pound ſixteen ſhillings ſterling as aforeſaid, the further ſum of twenty ſhillings currency, for every licence that ſhall or may be granted to any perſon for keeping a houſe or any other place of public entertainment, or for the retailing of wine, brandy, rum or other ſpirituous liquors within this Province.

or ſpirituous liquors, after the fifth day of April, 1794.

II. *And be it further enacted by the Authority aforeſaid*, That in every diſtrict throughout the ſaid Province, one month at leaſt before the fifth day of April in every year, being the day whereon the ſaid ſums of one pound ſixteen ſhillings ſterling, and twenty ſhillings currency, ſhall be due and payable as aforeſaid, the Secretary of the Province or other perſon empowered to iſſue the ſaid licence, ſhall and is hereby required to give public notice in the Upper Canada Gazette, or otherwiſe, to every perſon ſelling wine, brandy, rum or other ſpirituous liquors as aforeſaid, to pay the ſaid ſum of one pound ſixteen ſhillings ſterling, and twenty ſhillings currency, and to receive or take out a licence for the ſame, and by ſuch public notice to warn every perſon who ſhall neglect, omit or refuſe to take out a licence and ſtill continue to retail any wine, brandy, rum, or other ſpirituous liquors in leſs quantities at any one time than three gallons, of the pains and penalties that they are thereby likely to incur and hereafter to be inflicted by this Act.

Time and manner of giving public notice annually to the perſons, liable to the proviſions of this Act to comply therewith.

III. *And be it further Enacted by the Authority aforeſaid*, That every perſon who ſhall keep a houſe or other place of public entertainment for retailing wine, brandy, rum, or other ſpirituous liquors, ſhall cauſe to be written, painted, or printed over the door of ſuch houſe of entertainment, in legible characters, the following words; "Licenced to ſell wine and other ſpirituous liquors;" and every perſon neglecting to have the aforeſaid words, written, painted or printed as aforeſaid, and continue to keep ſuch a houſe of entertainment, ſhall for every ſuch offence forfeit and pay the ſum of five ſhillings currency, to be recovered before any one of his Majeſty's Juſtices of the Peace, upon the oath of one credible witneſs; one half of which ſaid ſum ſhall be given to the perſon informing, and the other half paid into his Majeſty's Receiver General, to and for the uſe of his Majeſty, his heirs and ſucceſſors, and to and for the uſe of this Province, and towards the ſupport of the civil government thereof.

Words to be written, painted or printed over the door of every houſe of public entertainment.

Penalty for neglecting.

IV. And whereas by a certain ordinance, paſſed in the twenty-eighth year of his preſent Majeſty's reign, it was declared and enacted, that every perſon taking out a licence for the purpoſe of retailing wine, brandy, rum or other ſpirituous liquors, ſhould be obliged to enter into a bond with ſufficient ſureties to keep an orderly and decent houſe: Be it therefore enacted by the authority aforeſaid, That every perſon taking out a licence by virtue of this Act, ſhall upon receiving ſuch licence from the Secretary of the Province or his agent or other perſon for that purpoſe appointed, enter into a bond in the penal ſum of ten pounds to his Majeſty, his heirs and ſucceſſors, well and truly to keep a decent and orderly houſe during the continuance of the ſaid licence to him granted as aforeſaid.

Perſons licenced ſhall enter into bonds to keep a decent & orderly houſe.

V. *And*

Fees of the secretary, or his agents, on licences.

V. *And be it further Enacted by the Authority aforesaid*, That the Secretary of the Province or his agent, or other person appointed to grant such licence, shall receive from each person to whom a licence may be granted, over and above the duty herein before specified, the further sum of two shillings and six-pence for his trouble in making out and issuing the same, and no more; and the clerk of the peace or other person who shall draw out such bond as aforesaid, shall receive and take the sum of two shillings and six-pence for his trouble therein, as aforesaid, and no more, any thing contained in any ordinance of the Province of Quebec, to the contrary notwithstanding.

Fee for drawing bond.

Retailers not keeping a house of entertainmet, exempted from the additional duty after the expiration of two years.

VI. *And be it further Enacted by the Authority aforesaid*, That the additional duty imposed by this Act, shall not extend nor be construed to extend to any person not keeping a house of public entertainment for a longer space of time than two years next after the fifth day of April, which will be in the year of our Lord one thousand seven hundred and ninety-four, but that at and after the expiration of the said term of two years, no person other than such as shall keep a house of public entertainment, shall be obliged to pay for any licence to him granted a greater sum than one pound sixteen shillings sterling as imposed by the above recited Act.

Application of the monies arising by this Act.

VII. *And be it further Enacted by the Authority aforesaid*, That the said receiver general do pay and apply the monies by him received under and by virtue of this Act, in the manner and for the purposes as set forth in a certain Act, intituled, "An Act to establish a fund for paying the salaries of the officers of the legislative council and house of assembly, and for defraying the contingent expences thereof," and that it shall and may be lawful for the receiver general of the Province to deduct from and out of the several sums of money by him received, the sum of three pounds for every hundred pounds that may be raised, levied, collected and paid by virtue of this Act.

Poundage of the receiver general.

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper-Canada.

Paſſed in the third Seſſion of the Provincial Parliament of Upper-Canada, met at Newark, on the ſecond day of June, in the thirty-fourth year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the ninth day of July following.

CHAP. I.

An ACT for the Regulation of Juries.

Preamble.

FOR the regulation of juries, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That the clerk of the peace of each and every diſtrict in this Province, ſhall yearly and every year make up from the returns of the ſeveral aſſeſſors of each pariſh, townſhip, reputed townſhip or place, which ſhall have been tranſmitted to him, a true and complete liſt or tranſcript of the names of the ſeveral inhabitant houſeholders, living in each of the ſaid pariſhes, townſhips, reputed townſhips or places, claſſed and divided in ſuch manner as by the ſaid returns ſhall appear, which liſt or tranſcript ſhall be tranſmitted or delivered by the clerk of the peace to the ſheriff of each reſpective diſtrict, or his under ſheriff, in order for his returning juries out of the ſaid liſt from time to time, as he ſhall be commanded, and that each and every perſon whoſe name ſhall be returned in either of the ſaid liſts, ſhall be held and taken as qualified to ſerve on juries, and that no ſheriff or coroner ſhall return any perſon to ſerve on any jury, whoſe name ſhall not appear in the ſaid liſt, and that every clerk of the peace neglecting his duty therein, ſhall forfeit

The clerks of the peace to deliver yearly to the ſheriffs a liſt of jurors, duly claſſed.

Perſons included in ſuch liſts qualified alone to ſerve on juries.

Penalty for neglect in the clerks of the peace.

forfeit the ſum of five pounds to ſuch perſon or perſons as ſhall inform or proſecute for the ſame, until the party be thereof convicted, by indictment, before the juſtices of the peace, at any quarter ſeſſions of the peace, to be holden for the diſtrict where ſuch neglect ſhall have been committed.

No ſheriff or other officer to return as a juror, on trials, any perſon who has already ſerved, as ſuch, within one year.

II. And for preventing abuſes by ſheriffs, bailiffs, or other officers concerned in the ſummoning and returning of jurors, Be it enacted by the authority aforeſaid, That no perſon or perſons ſhall be returned as a juror or jurors to ſerve on trials at any aſſizes or niſi prius, quarter ſeſſions or diſtrict court who have ſerved thereat within the ſpace of one year before, and if any ſuch ſheriff ſhall wilfully tranſgreſs herein, any judge or juſtice of aſſize or niſi prius, may and is hereby required, on examination and proof of ſuch offence in a ſummary way, to ſet a fine or fines, upon every ſuch offender as he ſhall think meet, not exceeding the ſum of ten pounds for any one offence.

Penalty.

Sheriffs, or other officers, to keep regiſters of the jurors on all trials, and to grant certificates of ſervice, if required.

III. *And be it further Enacted*, That the ſheriff, under ſheriff, or officer to whom the return of juries ſhall belong, ſhall from time to time enter or regiſter in a book to be kept for that purpoſe, the names of ſuch perſons as ſhall be ſummoned and ſhall ſerve as jurors on trials at any aſſizes or niſi prius, quarter ſeſſions, or diſtrict court, with the times of their ſervices, and every perſon ſo ſummoned and attending or ſerving as aforeſaid, ſhall upon application by him made to ſuch ſheriff, under ſheriff, or officer, have a certificate teſtifying the ſame, which certificate the ſaid ſheriff, under ſheriff or officer is hereby required to make out without fee or reward.

No reward to be taken for excuſing any perſon from ſerving on juries, and no juror to be ſummoned whoſe name is not ſpecified in the ſheriff's mandate.

IV. *And be it further Enacted by the Authority aforeſaid*, That no ſheriff, under ſheriff, or officer or any perſon whatſoever, ſhall directly or indirectly take or receive any money or other reward, to excuſe any perſon from ſerving or being ſummoned to ſerve on juries, and that no bailiff or other officer, appointed by any ſheriff or under ſheriff to ſummon juries, ſhall ſummon any perſon to ſerve thereon, other than ſuch whoſe name is ſpecified in a mandate ſigned by ſuch ſheriff or under ſheriff, and directed to ſuch bailiff or other officer, and if any ſheriff, under ſheriff, bailiff or other officer, ſhall wilfully tranſgreſs in any of the caſes aforeſaid, any judge or juſtice of aſſize or niſi prius, may and is hereby required on examination and proof of ſuch offence in a ſummary way, to ſet a fine or fines upon any perſon ſo offending, as he ſhall think meet, not exceeding the ſum of three pounds.

Penalty.

Method of making the returns of writs of venire facias juratores.

V. *And be it further Enacted by the Authority aforeſaid*, That every ſheriff or other officer, to whom the return of the venire facias juratores or other proceſs for the trial of cauſes, before juſtices of aſſize or niſi prius, who may be aſſigned to hold aſſizes in any diſtrict or place within this Province, doth or ſhall belong, ſhall upon his return of every ſuch writ of venire facias (unleſs in cauſes to be tried at bar or in caſes where a ſpecial jury ſhall be ſtruck by order or rule of court) annex a pannel to the ſaid writ, containing the chriſtian and ſirnames, additions and places of abode, of a competent number of jurors, whoſe names ſhall have been returned in the ſaid liſts, herein before directed to be made out, whoſe names ſhall be inſerted in the pannel annexed to every venire facias, for the trial of all iſſues at the ſame aſſizes in each reſpective diſtrict or place, which number of jurors ſhall not be leſs than thirty-ſix in any diſtrict or place, nor more than forty-eight, and the perſons named in ſuch pannels, ſhall be ſummoned to ſerve on juries at the then next aſſizes or ſeſſions of niſi prius, for the reſpective diſtricts or places to be named in ſuch writs, and no other.

Number of jurors to be returned.

VI. *And*

Manner of impannelling the jury for the trial of every cauſe.

VI. *And be it further Enacted by the Authority aforeſaid*, That the name of each and every perſon who ſhall be ſummoned and empannelled as aforeſaid, with his addition and the place of his abode, ſhall be written on ſeveral and diſtinct pieces of parchment or paper, being all as near as may be of equal ſize, and ſhall be delivered to the marſhall of ſuch judge of aſſize or niſi prius, who is to try the cauſes in each reſpective diſtrict, by the ſheriff or under ſheriff of the ſaid diſtrict, or ſome agent of his, and ſhall be put together in a box or glaſs to be provided for that purpoſe, and when a cauſe ſhall be called on to be tried, the marſhall or ſome indifferent perſon by direction of the court, may and ſhall in open court draw out twelve of the ſaid parchments or papers ſucceſſively, and if any of the perſons whoſe names ſhall be ſo drawn, ſhall not appear or be challenged and ſet aſide, then ſuch further number, until twelve perſons be drawn, who ſhall appear; and after, all cauſes of challenge ſhall be allowed to be indifferent; and the ſaid twelve perſons, their names being marked in the pannel and they being ſworn, ſhall be the jury to try the cauſe, and the names of the perſons ſo drawn and ſworn, ſhall be kept apart by themſelves till ſuch jury ſhall have given in their verdict, and the ſame is recorded, or until the jury ſhall by conſent of the parties or leave of the court, be diſcharged; and then the ſaid names ſhall be rolled up again and returned to the former box or glaſs, there to be kept with the other names remaining at that time undrawn, and ſo toties quoties as long as any cauſe remains to be tried.

Penalty for not appearing when duly ſummoned as a juror and drawn to ſerve on trial.

VII. *And be it further Enacted by the Authority aforeſaid*, That every perſon or perſons, whoſe name or names ſhall have been drawn to ſerve on the trial of any iſſue, and who ſhall not appear after being openly called three times, ſhall forfeit and pay upon oath made by ſome credible perſon, that the party ſo making default had been lawfully ſummoned, ſuch fine not exceeding the ſum of three pounds, nor leſs than twenty ſhillings, as the judge who ſits to try the cauſe ſhall think reaſonable to inflict; unleſs ſome reaſonable cauſe of his abſence be aſſigned or proved to the ſatisfaction of ſuch judge.

Perſons aged 60 years exempted.

VIII. *Provided always, and be it Enacted*, That no perſon aged ſixty years, ſhall be obliged to attend upon any ſummons to be directed to him for the purpoſes aforeſaid.

Fee of each juror ſworn to give his verdict.

IX. *And be it further Enacted by the Authority aforeſaid*, That every common juryman who ſhall have been ſworn to give his verdict in any iſſue brought before the court, ſhall be intitled to demand and receive the ſum of one ſhilling from the plaintiff or his attorney, for every cauſe in which ſuch juryman ſhall be ſworn, to be accounted for in coſts by the party charged with the payment thereof.

The Court of King's Bench, on motion, may order a ſpecial jury to be ſtruck for the trial of any iſſue.

X. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for his Majeſty's court of king's bench in this Province, upon motion made on behalf of his Majeſty, his heirs and ſucceſſors, or on the motion of any proſecutor or defendant, in any indictment or information depending or to be brought or proſecuted in the ſaid court, or on the motion of any plaintiff or plaintiffs, defendant or defendants, in any action, cauſe, or ſuit whatſoever to be brought in the ſaid court, and the ſaid court is hereby authorized upon motion as aforeſaid, to order and appoint a ſpecial jury to be ſtruck before the proper officer, for the trial of any iſſue joined, in any of the ſaid caſes, in ſuch manner as ſpecial juries are uſually ſtruck upon trials at bar, in *England*; which jury ſo ſtruck as aforeſaid, ſhall be the jury returned for the trial of the ſaid iſſue.

Perſons competent to ſerve on ſpecial juries.

XI. *Provided always, and it is hereby Enacted*, That no perſon ſhall be nominated by the ſheriff, to ſerve on a ſpecial jury, whoſe name ſhall not be included in either the fifth, ſixth, ſeventh, eighth, ninth, or tenth claſſes, or in the upper liſt of inhabitant houſeholders, as directed to be made out under and by virtue of a certain Act of the legiſlature of this Province, intituled, "An Act, to authorize and direct the laying and collecting of aſſeſſments and rates in every diſtrict of this Province; and to provide for the payment of wages to the members of the houſe of aſſembly."

Fee to be taken by each ſpecial juror for ſerving as ſuch.

XII. *And be it further Enacted by the Authority aforeſaid*, That no perſon who ſhall ſerve on any ſpecial jury to be appointed or returned under and by virtue of this Act, ſhall be allowed to take for ſerving on any ſuch jury more than a ſum of money not exceeding the ſum of five ſhillings, except in cauſes where a view hath been or ſhall be directed.

Which party ſhall bear the increaſed coſts occaſioned by a ſpecial jury.

XIII. *And be it further Enacted*, That the perſon or party who ſhall apply for ſuch ſpecial jury, ſhall not only bear and pay the fees for ſtriking ſuch jury, but ſhall alſo pay and diſcharge all expences occaſioned by the trial of the cauſe by ſuch ſpecial jury, and ſhall not have any further or other allowance for the ſame upon taxation of coſts than ſuch perſon or party would be intitled unto in caſe the iſſue had been tried by a common jury, unleſs the judge before whom the cauſe is tried, ſhall immediately after the trial certify in open court, under his hand, upon the back of the record, that the ſame was a cauſe proper to be tried by a ſpecial jury.

Proviſion in caſes where a view ſhall be allowed.

XIV. *Provided always, and be it further Enacted*, That where a view ſhall be allowed in any caſe, that in ſuch caſe ſix of the jurors named in ſuch pannel, or more who ſhall be mutually conſented to by the parties, or their agents on both ſides, or if they cannot agree, ſhall be named by the officer of the court, or by the judge before whom the ſaid cauſe ſhall be tried, ſhall have the view and be firſt ſworn, or ſuch of them as appear upon the jury to try the ſaid cauſe before any drawing of jurors as aforeſaid, and ſo many only ſhall be drawn to be added to the viewers as aforeſaid, as ſhall make up the number of twelve to be ſworn for the trial of ſuch iſſue. Provided alſo, that every perſon attending ſuch view as aforeſaid, ſhall and may demand and receive a ſum not exceeding ten ſhillings, for every day on which he ſhall be ſo employed.

Method of appointing viewers,

allowance to each of them per day.

The want of a view or any informalities in having the ſame, ſhall not ſtay proceedings in trying the iſſue.

XV. *Provided always, and be it further Enacted*, That in caſe no view ſhall be had, or if a view ſhall be had by any of the ſaid jurors, no valid objection ſhall be made on either ſide, either for want of a view, or that it was not had by any of the twelve jurors firſt named, or that it was not had by any particular number of jurors named in the ſaid writ, but the trial of the iſſue ſhall proceed, any formal objection reſpecting the view, to the contrary notwithſtanding.

CHAP. II.

An ACT *to eſtabliſh a Superior Court of Civil and Criminal Juriſdiction, and to regulate the Court of Appeal.*

Preamble.

FOR the general and regular adminiſtration of juſtice throughout this Province; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper-Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the parliament of *Great Britain*, intituled, "An Act

to

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," and by the authority of the ſame, That there be conſtituted and eſtabliſhed, and there is hereby conſtituted and eſtabliſhed a court of law, to be called and known by the name and ſtyle of his Majeſty's Court of King's Bench, for the Province of *Upper-Canada*, which ſhall be a court of record of original juriſdiction, and ſhall poſſeſs all ſuch powers and authorities as by the law of *England* are incident to a ſuperior court of civil and criminal juriſdiction, and may and ſhall hold plea in all, and all manner of actions, cauſes or ſuits, as well criminal as civil, real, perſonal and mixed, ariſing, happening or being within the ſaid Province, and may and ſhall proceed in ſuch actions, cauſes or ſuits by ſuch proceſs and courſe, as ſhall tend with juſtice and diſpatch, to determine the ſame, and may, and ſhall hear and determine all iſſues of law, and ſhall alſo hear, and by and with an inqueſt of good and lawful men, determine all iſſues of fact that may be joined in any ſuch action, cauſe or ſuit, as aforeſaid, and judgment thereon give, and execution thereof award, in as full and ample a manner as can or may be done in his Majeſty's courts of king's bench, common bench, or in matters which regard the king's revenue by the court of exchequer in *England*. And that his Majeſty's chief juſtice of this Province, together with two puiſne juſtices, ſhall preſide in the ſaid court, which court ſhall be holden in a place certain, that is, in the city, town, or place where the governor or lieutenant governor ſhall uſually reſide; and until ſuch place be fixed, the ſaid court ſhall be holden at the laſt place of meeting of the legiſlative council and aſſembly.

A Court of King's Bench eſtabliſhed.

Juriſdiction and powers thereof.

Perſons who ſhall preſide therein, & place where the ſame ſhall be holden.

II. And in order that certain ſtated times be fixed for the ſitting of the court, be it enacted by the authority aforeſaid, That four periods of ſeſſion or terms be appointed in each year, ſucceſſively, to be known by the names of Hilary, Eaſter, Trinity, and Michaelmas term. That the Hilary do commence on the third Monday in January, and end on the Saturday of the enſuing week. That Eaſter term do commence on Monday next after the ſixteenth day of April, and end on the Saturday of the enſuing week. That the Trinity term do commence on the third Monday in July, and end on the Saturday of the enſuing week: and that the Michaelmas term do commence on the firſt Monday in October, and end on the Saturday next enſuing: and that the firſt and laſt days of every term, and every alternate day from the firſt, not including Sunday, be return days.

Terms of ſitting.

At what periods the ſame ſhall commence reſpectively.

III. *Provided always, and be it hereby further Enacted*, That when the court ſhall have good reaſon to believe, there will not be ſufficient buſineſs to require their daily attendance throughout the term, they may be at liberty to adjourn the court on any return day, to the next immediate return day.

The court may adjourn from one return day to the next immediate one.

IV. *And be it further Enacted by the Authority aforeſaid*, That all writs to be ſued out of the ſaid court, ſhall iſſue in the King's name, and be teſted by the Chief Juſtice, or in his abſence, by the ſenior Judge of the court, and be returnable on ſome return day in term time, and that not leſs than fifteen days incluſive, ſhall always intervene between the teſte and return of the firſt proceſs that ſhall be directed to the Sheriff of the Home diſtrict, or the diſtrict in which the court ſhall be holden, and that not leſs than forty days incluſive, ſhall always intervene between the teſte and return of the firſt proceſs into every other diſtrict.

Manner of iſſuing and teſting writs and when returnable.

V. *And*

Original proceſs.

V. *And be it further Enacted by the Authority aforeſaid*, That the original and firſt proceſs of the ſaid court, ſhall be by writ of capias and reſpondendum; and in order that the defendant or defendants may be immediately apprized of the cauſe of complaint againſt him or them, the ſaid writ ſhall ſtate the form of action, and refer to the declaration which ſhall always be annexed to, and ſerved with the writ; and for that purpoſe it is hereby further enacted, That no proceſs ſhall iſſue at the ſuit of any plaintiff, where the defendant is not to be holden to ſpecial bail, until the declaration on which it may be founded ſhall be filed in the office.

Declaration to be annexed to the writ; and filed in the office before proceſs iſſues.

Circumſtances neceſſary in order to arreſt or hold to ſpecial bail, and forms in ſo doing.

VI. *And be it further Enacted by the Authority aforeſaid*, That no perſon ſhall be arreſted or holden to ſpecial bail, upon any proceſs iſſuing out of the ſaid court in a civil ſuit, unleſs an affidavit be firſt made by the plaintiff, that the defendant is juſtly and truly indebted to him, in a ſum certain, which together with the account for which it became due, ſhall be ſpecified, and alſo that the deponent verily believes the defendant is about to leave the Province, with an intent to defraud his creditors, which affidavit may be made before any Judge or Commiſſioner of the Court, authorized to take affidavits as herein after is provided, or elſe before the officer who ſhall iſſue ſuch proceſs, or his deputy, which oath the ſaid officer or his deputy are hereby authorized to adminiſter; and for ſuch affidavit one ſhilling ſhall be paid and no more; and the ſum or ſums ſpecified in ſuch affidavit, ſhall be indorſed on the back of the writ, or proceſs, for which ſum or ſums the ſheriff or other officer to whom ſuch writ or proceſs ſhall be directed ſhall take bail, and for no more.

Bail.

VII. And whereas by reaſon of the preſent want of a certain and ready communication throughout the Province, it may be practicable for fraudulent perſons to eſcape from their creditors, before proceſs can be obtained from the ſaid court to prevent them, be it therefore enacted by the authority aforeſaid, That it ſhall and may be lawful for any plaintiff having made ſuch affidavit as aforeſaid, to ſue out from the clerk of the peace, in each and every diſtrict, a writ of capias ad reſpondendum, with which the ſaid clerk ſhall, from time to time be ſupplied, ſigned by the proper officer of the court, on which ſhall be indorſed the amount of the ſum ſworn to, and to which the ſaid affidavit ſhall be annexed; whereupon it ſhall and may be lawful for the ſheriff to arreſt the ſaid defendant and hold him to ſpecial bail, to the amount of the ſum endorſed.

Writs for arreſting, or holding to ſpecial bail to be procurable from the clerk of the peace in every diſtrict.

Ordinary courſe of proceeding in civil ſuits.

VIII. *And be it further Enacted by the Authority aforeſaid*, That in all civil ſuits where the defendant ſhall not be holden to bail, by reaſon of ſuch affidavit as aforeſaid, the ordinary courſe of proceeding ſhall be by ſerving or cauſing the defendant or defendants perſonally to be ſerved with a copy of the proceſs and declaration, by ſome literate perſon; and if ſuch defendant or defendants ſhall not appear at the return of the proceſs, or within eight days after ſuch return, in ſuch caſe it ſhall and may be lawful for the plaintiff or plaintiffs, upon affidavit being made and filed of the perſonal ſervice of ſuch proceſs and declaration, which affidavit ſhall be filed gratis, to enter a common appearance for the defendant or defendants, and to proceed thereon, as if ſuch defendant or defendants had entered his, her or their appearance.

Affidavit of perſonal ſervice.

Notice.

IX. *And be it further Enacted by the Authority aforeſaid*, That upon every copy of ſuch proceſs, to be ſerved upon any defendant, ſhall be written a notice in the Engliſh tongue, to ſuch defendant of the intent and meaning of ſuch ſervice to the effect following:

" A. B.

" A. B. You are ſerved with this proceſs, to the intent that you may, either " in perſon or by your attorney, appear in his Majeſty's court of King's " Bench, at the return thereof, being the day of in order to " your defence in this action." In the Engliſh tongue.

And when any party, defendant, is a Canadian ſubject by treaty, or the ſon or daughter of ſuch Canadian ſubject, the like notice ſhall be written in the French language.

" A. B. Il vous eſt enjoint et ordonné de comparôitre perſonellement ou par " procureur a la cour du banc du roy a l'expiration de ce writ qui ſera le " jour pour repondre a cette action." In the French tongue.

X. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for each and every defendant perſonally to attend and enter his, her or their appearance at the office, on or before the day at which the proceſs or writ ſhall be returnable, or to authorize any perſon to enter an appearance for him, her or them: and that in all actions or ſuits where the defendant or defendants have entered, or cauſed ſuch appearance to be entered, the plaintiff or his attorney ſhall, by a demand in writing, call for a plea; and in all actions or ſuits where the defendant or defendants live within the Home diſtrict, or the diſtrict in which the court ſhall be holden, four days ſhall be allowed after ſuch demand, as the ordinary time within which they ſhall be required to file their plea to the action; and in all actions or ſuits where the defendant or defendants reſide without the limits of the Home diſtrict or diſtrict in which the court ſhall be holden, eight days ſhall be allowed after ſuch demand, as the ordinary time within which they ſhall be required to file their plea, and if after the expiration of ſuch times reſpectively, no plea be filed, it ſhall and may be lawful for the plaintiff or plaintiffs or his attorney to ſign judgment in the cauſe.

Appearance.

Demand of a plea.

Time allowed for filing the ſame.

Judgment for want of a plea.

XI. *And be it further Enacted by the Authority aforeſaid*, That in all actions or ſuits, where the defendant or defendants, having been ſerved with a copy of proceſs, with ſuch written notice as aforeſaid, ſhall neglect to enter their appearance at the return of the writ, it ſhall and may be lawful for the plaintiff or plaintiffs, having entered ſuch appearance for the ſaid defendant or defendants, as aforeſaid, at the expiration of eight days after having entered ſuch appearance, to ſign judgment in the cauſe, without any demand of a plea.

Judgment for want of appearance.

XII. *And be it further Enacted by the Authority aforeſaid*, That the firſt and laſt days of all periods of time limited by this act, or hereafter to be limited by any rules or orders of court, for the regulation of practice, be incluſive.

Firſt and laſt days to be incluſive.

XIII. *And be it further Enacted by the Authority aforeſaid*, That the form of proceeding in the ſaid court ſhall be by a courſe of pleading, to iſſue in the moſt compendious manner; and that in all actions founded on a common undertaking, the following form of declaration may be adopted.—A. B. complains of C. D. late of For that whereas the ſaid C. D. on the day of at was indebted to the ſaid A. B. in the ſum of (the conſideration advanced) and being ſo indebted, he the ſaid C. D. then and there undertook and faithfully promiſed the ſaid A. B. to pay him the ſaid ſum, when he the ſaid C. D. ſhould be requeſted, and though ſince requeſted, doth now refuſe ſo to do, to the ſaid A. B. his damage of £. who therefore brings his ſuit.

Form of proceeding to iſſue.

Form of a declaration on a common undertaking.

XIV. *And be it further Enacted by the Authority aforeſaid*, That each and every

The ſtatutes of jeoſails, limitations, and for the amendment of the law, adopted as in England.

every of the ſtatutes of jeoſails, and each and every of the ſtatutes of limitations, and each and every of the ſtatutes for the amendment of the law, excepting thoſe of mere local expediency, which from time to time have been provided and enacted, reſpecting the law of *England*, be adopted and declared to be valid and effectual for the ſame purpoſes in this Province.

A rule of court to be obtained, on motion, for the payment of money into the ſame, in liquidation of a debt certain,

XV. And in order to diſcourage vexatious ſuits, and to prevent additional charges upon any defendant or defendants, who may be willing to pay the ſum which he or they admit to be juſtly due, Be it enacted, that in all caſes where the ſum demanded by any plaintiff or plaintiffs is a ſum certain, or is capable of being aſcertained by computation of numbers, it ſhall and may be lawful for any defendant or defendants, to move that he or they may be at liberty to pay into court ſuch ſum as he or they ſhall propoſe to pay in full diſcharge of the ſaid demand; whereupon the court may order a rule to be drawn up to ſuch effect, or in time of vacation, ſuch order may be made by a judge of the court, and in caſe the plaintiff ſhall be willing to accept, and ſhall accept the ſame, together with all coſts accruing to that time, to be taxed by the proper officer, the ſame ſhall be in full ſatisfaction of ſuch his demand, and all further proceedings in the ſaid action ſhall ceaſe; and to the end that every plaintiff or his attorney may know of ſuch proceeding, the defendant or defendants ſhall, and are hereby required to ſerve a copy of the rule authorizing ſuch payment to be made, upon the plaintiff or his attorney, at the time of filing his plea of the general iſſue, to ſuch plaintiff's declaration.

and a copy of ſuch rule ſerved on the plaintiff, or his attorney.

Poundage and fees of the officer receiving the ſame.

XVI. *Provided always*, That upon payment of money into court, it ſhall and may be lawful for the officer receiving the ſame, to demand, and take a ſum not exceeding twenty ſhillings, for every hundred pounds ſo paid into court, and at, and after the ſame rate and proportion, for every ſum of money ſo paid, and alſo to demand and take the ſum of one ſhilling for every receipt by him given on account of money ſo paid in as aforeſaid.

Commiſſions of aſſize and niſi prius to iſſue, yearly, into the ſeveral diſtricts,

XVII. And for the more convenient adminiſtration of juſtice throughout the Province, Be it enacted, that it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, to iſſue yearly and every year, in the vacation between the Trinity and Michaelmas terms, ſuch commiſſions of aſſize and niſi prius, into the ſeveral diſtricts, as may be neceſſary for the purpoſe of trying all iſſues joined in the ſaid court, in any ſuit or action ariſing in the ſaid diſtricts reſpectively; and that when a ſuitable communication by land ſhall be opened from the city, town or place, which ſhall be the ſeat of government, into the reſpective diſtricts, and the circumſtances of the Province may require it, it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government, likewiſe to iſſue yearly and every year in the vacation, between the Hilary and Eaſter terms, ſuch commiſſions of aſſize and niſi prius into each of the ſeveral diſtricts, as may be neceſſary for the trial of all iſſues joined in manner aforeſaid; and to that end, it ſhall and may be lawful for any perſon or perſons upon reaſonable notice given to the adverſe party, or their attorney, to take and ſue forth ſuch writs and records of niſi prius, as may be neceſſary for the trial of all iſſues joined in the ſaid court as may be triable in the reſpective diſtricts of this Province, and thereupon ſue out their jury proceſs in ſuch manner and form, and with ſuch awards, as is practiſed in the courts of niſi prius in *England*.

and oftener, when circumſtances will permit.

Writs to be ſued forth, accordingly, by the parties.

XVIII.

Special commissions, for the trial of offenders, to issue, notwithstanding, when expedient.

XVIII. *Provided always*, That nothing herein contained shall prevent or be construed to prevent the governor, lieutenant governor, or person administering the government of this Province, from issuing a special commission or commissions for the trial of one or more offender or offenders upon extraordinary occasions, when he shall deem it requisite or expedient that such commission should issue.

Period and manner of trying issues joined in the Home district.

XIX. *And be it further Enacted by the Authority aforesaid*, That upon all issues joined in the said court in any suit or action which shall arise or be triable within the Home district, or in the district where the court shall be holden, the chief justice, or in his absence, any other judge of the said court, shall, as justice of nisi prius for the said district, at their discretion, either in term time, or within ten days next after the end of every Easter and Trinity term, respectively, try all manner of issues joined in the said court, which ought to be tried by an inquest of the said district, and that commissions and writs of nisi prius shall be for that purpose from time to time awarded; and it shall and may be lawful for any person or persons, upon reasonable notice as herein after set forth, given to the adverse party or their attorney, to take and sue forth such writs and records of nisi prius as may be necessary, for the trial of such issues as aforesaid.

Writs of nisi prius to be sued forth.

Sheriffs to make return of all writs of nisi prius, and to give their attendance upon the chief justice, or other judge of assize.

XX. *And be it further Enacted by the Authority aforesaid*, That the sheriffs of the several districts shall, and they are hereby required to make return of all writs of nisi prius which shall be delivered to them, or their sufficient deputy, before the said chief justice, and every other judge who shall be assigned to execute such commissions of assize and nisi prius, and shall give their attendance upon the said chief justice, and each other justice, as well for the returning of such tales de circumstantibus as shall be prayed for the trial of such issues, as for the maintenance of good order in the king's court, and for the doing and executing of all other things to the office of sheriff in such case belonging and appertaining.

Notice of trial in the Home district.

Countermand thereof.

XXI *And be it further Enacted by the Authority aforesaid*, That no indictment, information or cause whatsoever, shall be tried at nisi prius, before any judge or justice of assize or nisi prius, or at the sittings for the Home district, or district where the said court shall be holden, unless notice of trial, in writing, has been given at least eight days before such intended trial; and in case any party or parties shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same, in writing, at least four days before such intended trial, every such party shall, upon neglect of bringing such issue to trial, be obliged to pay unto the party or parties to whom such notice of trial shall have been given, as aforesaid, the like costs and charges as if such trial had not been countermanded.

Notice of trial in the other districts.

Countermand thereof.

XXII. *And be it further Enacted by the Authority aforesaid*, That no indictment, information or cause whatsoever, shall be tried at nisi prius before any judge or justice of assize or nisi prius, in any district, other than the Home district, or district where the court shall be holden, unless notice of trial has been given, at least twenty days before such intended trial; and in case any party or parties shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same, in writing, at least fourteen days before such intended trial, every such party shall, upon neglect of bringing such issue to trial, be obliged to pay unto the party or parties to whom such notice of

trial ſhall have been given as aforeſaid, the like coſts and charges as if ſuch trial had not been countermanded.

Commiſſions for the examination of witneſſes without the province, and of perſons, aged, infirm, or going to depart the Province.

XXIII. And whereas it may in many caſes be deſirable for the furtherance of juſtice to obtain the depoſitions of witneſſes in civil ſuits, which cannot be had by the ordinary proceſs of ſubpœna, Be it enacted by the authority aforeſaid, That where the cauſe of action ariſes without the juriſdiction of the court, it ſhall and may be lawful on ſpecial application for that purpoſe made, to iſſue a commiſſion under the ſeal of the court, to take the examination of witneſſes reſiding without the limits of the Province, due notice being given to the adverſe party, to the end that he, ſhe or they, may cauſe ſuch witneſſes to be croſs-examined, and alſo that when the teſtimony of any aged or infirm perſon, or of any perſon about to depart the Province may be required, it ſhall and may be lawful for the ſaid court to iſſue a commiſſion, in like manner, for the examination of ſuch aged or infirm perſon, or of any perſon about to depart the Province, due notice being given to the adverſe party for the purpoſes aforeſaid.

Exceptions, in certain caſes, to the evidence obtained by ſuch examinations.

XXIV. *Provided always, and be it further Enacted*, That the examination of ſuch aged or infirm perſon ſo taken, ſhall not be admitted or read at the trial of any iſſue, in caſe he or ſhe be living at the time of the trial, and that the examination of ſuch perſon about to depart the Province, ſo taken, ſhall not be admitted or read at the trial of any iſſue, in caſe he or ſhe ſhall be in the Province at the time of ſuch trial.

Coſts of ſuit to be regulated by the ſtatutes and uſages of England.

XXV. *And be it further Enacted by the Authority aforeſaid*; That the allowance of coſts to either party, plaintiff or defendant, in all civil ſuits and penal actions, be regulated by the ſtatutes and uſages which direct the payment of coſts, by the laws of England.

Commiſſioners to be empowered to take affidavits.

XXVI. *And be it further Enacted*, That the Chief Juſtice and other the Juſtices of the ſaid court of King's Bench, for the time being, or any two of them, whereof the Chief Juſtice for the time being to be one, ſhall, and may by one or more commiſſion or commiſſions, under the ſeal of the ſaid court, from time to time, as need ſhall require, empower what, and as many perſons as they ſhall think fit and neceſſary, in all the ſeveral diſtricts within this Province, to take and receive all and every ſuch affidavit and affidavits as any perſon or perſons ſhall be willing and deſirous to make before any of the perſons ſo empowered, in or concerning any cauſe, matter or thing depending, or hereafter to be depending, or in any wiſe concerning any of the proceedings to be in the ſaid reſpective courts, and that it ſhall and may be lawful for any judge of aſſize, in his circuit, to take and receive any affidavit or affidavits as any perſon or perſons ſhall be willing and deſirous to make before him, in or concerning any cauſe, matter or thing depending or hereafter to be depending, or in any wiſe concerning any proceedings to be had in the ſaid court of King's Bench, which ſaid affidavits, taken as aforeſaid, ſhall be filed in the office of the ſaid court, and there be read and made uſe of in the ſaid court, to all intents and purpoſes as other affidavits, taken in the ſaid courts ought to be, and that all and every affidavit and affidavits, taken as aforeſaid, ſhall be of the ſame force as affidavits taken in the ſaid court ſhall and may be; and all and every perſon or perſons forſwearing him, her, or themſelves, in ſuch affidavit or affidavits, ſhall incur and be liable unto the ſame pains and penalties as if ſuch affidavit or affidavits had been made and taken in open court.

Force and effect of ſuch affidavits.

Pains and penalties of perjury in making ſuch affidavit.

Provided

Provided always, That for the taking of every ſuch affidavit, the perſon or perſons ſo empowered and taking the ſame, ſhall, for ſo doing, receive only the ſum or fee of twelve pence and no more.

Fee for taking affidavit.

XXVII. *And be it further Enacted by the Authority aforeſaid*, That the chief juſtice for the time being, and other the juſtices of the ſaid court of king's bench, or any two of them, whereof the ſaid chief juſtice ſhall be one, ſhall, or may by one or more commiſſion or commiſſions, under the ſeal of the ſaid court, from time to time, as need ſhall require, empower ſuch and ſo many perſons as they ſhall think fit and neceſſary, in all and every the ſeveral diſtricts of this Province, to take and receive all and every recognizance or recognizances of bail or bails, as any perſon or perſons ſhall be willing or deſirous to acknowledge, or make before any of the perſons ſo empowered, in any action or ſuit depending, or hereafter to be depending in the ſaid court, in ſuch manner and form, and by ſuch recognizance or bail as the juſtices of the ſaid court may hereafter take, or may think fit; which ſaid recognizance or recognizances of bail, or bail-piece, ſo taken as aforeſaid, ſhall be tranſmitted to any one of the juſtices of the ſaid court, who upon affidavit made of the due taking of the recognizance of ſuch bail, or bail-piece, by ſome credible perſon, preſent at the taking thereof, ſuch juſtice ſhall receive the ſame; which recognizance of bail, or bail-piece, ſo taken and tranſmitted, ſhall be of the like effect as if the ſame were taken de bene eſſe, before any of the ſaid juſtices; for the taking of which recognizance or recognizances of bail, or bail-piece, the perſon or perſons ſo empowered, ſhall receive only the ſum or fee of two ſhillings, and no more.

Commiſſioners to be empowered to take recognizances of bails.

Means of rendering ſuch recognizances of bail effectual.

Fee for taking the ſame.

XXVIII. *And be it further Enacted*, That the juſtices, reſpectively, ſhall make ſuch rules and orders for the juſtifying of ſuch bails, and making of the ſame abſolute, as to them ſhall ſeem meet, ſo as the cognizor or cognizors of ſuch bail or bails be not compelled to appear in perſon in the ſaid court, to juſtify him or themſelves; but the ſame may, and is hereby directed to be determined by affidavit or affidavits, duly taken before the ſaid commiſſioners, who are hereby empowered and required to take the ſame, and alſo to be examined by the juſtices upon oath, touching the value of their reſpective eſtates.

Rules to be made for juſtifying of bail, but by which the cognizors ſhall not be compelable to perſonal appearance in court.

XXIX. *And be it further Enacted*, That any judge of aſſize, in his circuit, ſhall and may take and receive all and every ſuch recognizance or recognizances of bail or bails, as any perſon ſhall be willing and deſirous to make and acknowledge before him, which being tranſmitted in like manner as aforeſaid, ſhall, without oath be received in manner as aforeſaid.

Recognizances of bail before a judge of aſſize to be valid.

XXX. *And be it further Enacted*, That the ſeveral Acts and Ordinances of the governor and council, of the late Province of *Quebec*, whereby the ſeveral courts of common pleas in this Province were conſtituted, and from time to time continued, be, and each and every of them are hereby repealed.

Ordinances, conſtituting the former courts of common pleas, repealed.

XXXI. *And be it further Enacted*, That all proceedings upon actions, inſtituted and pending in any of the late courts of common pleas in this Province, ſhall forthwith be tranſmitted into the ſaid court of king's bench, there to be continued to judgment and execution, as if the ſame had been commenced in the ſaid court, for which purpoſe it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, to iſſue a commiſſion for the trial of all iſſues that may be joined in any of the ſaid courts in their reſpective diſtricts, and to direct that the records thereof be returned into the ſaid court of king's bench.

Proviſion for actions pending in the late courts of common pleas.

The records of the late courts of common pleas to be depoſited in the court of king's bench.

XXXII. *And be it further Enacted*, That all and ſingular the records of the ſeveral courts of common pleas for the Eaſtern diſtrict, for the Midland diſtrict, for the Home diſtrict, and for the Weſtern diſtrict of this Province, reſpectively, ſhall be tranſmitted to, and depoſited in the ſaid court of king's bench, and make a part of the records of the ſaid court, for all ſuch purpoſes as to law and juſtice may appertain.

Court of appeals.

XXXIII. *And be it further Enacted*, That the governor, lieutenant governor, or perſon adminiſtering the government of this Province, or the chief juſtice of the Province, together with any two or more members of the executive council of the Province, ſhall compoſe a court of appeal, for hearing and determining all appeals from ſuch judgments or ſentences as may lawfully be brought before them.

The judges below, if members of the Court of Appeal may aſſign their reaſons, but not give their votes in appeal.

XXXIV. *Provided always, and be it further Enacted*, That when any perſon having given the judgment or ſentence appealed from, ſhall be a member of the court of appeal, it ſhall and may be lawful for him to aſſign to the ſaid court his reaſons for delivering ſuch judgment, in caſe he ſhall be ſo diſpoſed, but he ſhall not be at liberty to give his vote in the deciſion of the queſtion, before the court.

Limitation of appeals.

XXXV. *And be it further Enacted*, That an appeal ſhall lie to the court of the governor and executive council, from all judgments given in the ſaid court of king's bench, in all caſes where the matter in controverſy ſhall exceed the ſum of one hundred pounds, or ſhall relate to the taking of any annual or other rent, cuſtomary or other duty, fee, or any other ſuch like demand, of a general and public nature, affecting future rights, of what value or amount ſoever the ſame may be, upon proper ſecurity being given by the appellant that he will effectually proſecute his appeal and anſwer the condemnation, and alſo pay ſuch coſts and damages as ſhall be awarded in caſe the judgment or ſentence appealed from ſhall be affirmed, and that upon the perfecting ſuch ſecurity, execution ſhall be ſtayed in the original cauſe.

Security to be given.

Caſes of appeal to his Majeſty in council.

XXXVI. *And be it further Enacted by the Authority aforeſaid*, That the judgment of the ſaid court of appeal ſhall be final, in all caſes where the matter in controverſy ſhall not exceed the ſum or value of five hundred pounds ſterling, but in caſes exceeding that amount, as well as in all caſes, where the matter in queſtion ſhall relate to the taking of any annual or other rent, cuſtomary or other duty, or fee, or any other ſuch like demand of a general and public nature, affecting future rights, of what value or amount ſoever the ſame may be, an appeal may lie to his Majeſty, in his privy council, upon proper ſecurity being given by the appellant that he will effectually proſecute his appeal, and anſwer the condemnation, and alſo pay ſuch coſts and damages as ſhall be awarded by his Majeſty, in his privy council, in caſe the judgment of the ſaid court of governor and executive council, or court of appeals ſhall be affirmed: and upon the perfecting of ſuch ſecurity, execution of the ſaid judgment ſhall be ſtayed, until the final determination of ſuch appeal to the King in council.

Security to be given.

Proviſion for removing the court of king's bench to another place of holding the ſame.

Provided always, and be it further Enacted, That in time of actual war, and when there may be reaſon to ſuſpect an invaſion of the Province from the King's enemies, it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government, by and with the advice and conſent of the executive council, to iſſue his proclamation to remove the place of holding

holding the said court, and to appoint and make known such other place, within the limits of the Province, as shall be deemed most safe and convenient for holding the same.

Fees.

XXXVII. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the persons herein after mentioned, to demand and take the following fees, and no more, for the services respectively set forth.

Increased fees allowed to his Majesty's attorney general.

XXXVIII. *Provided always*, That it shall and may be lawful for his Majesty's attorney general to demand and receive his fees in the increased proportion of one third, to the following table, to wit:

	s.	d.
Taking instructions to prosecute or defend, with warrant of attorney,	5	0
For drawing declaration,	5	0
Copy of the same,	2	6
Entering common appearance with clerk,	1	0
Pleading general issue,	3	0
Special plea, replication, or other pleading,	10	0
Copy of the same,	3	0
Drawing affidavit,	5	0
Notice of trial and all other notices,	2	6
Every subpœna,	1	0
Every motion of course,	5	0
Every special motion,	7	6
Preparing brief of facts,	10	0
Arguing demurer,	10	0
Fee with brief in matters under £30—10s. above		
Every necessary attendance at the office, or on adverse party,	1	0
Attending to strike special jury,	7	6
Attending taxation of costs,	5	0

Fees to be taken by the Clerk of the King's Bench in Civil Causes:

For sealing, entering and filing every writ or precipe,	2	0
For entering appearance,	1	0
Drawing every order or rule of court,	2	0
Filing every declaration, plea, demurer, or any pleading or paper,	2	0
Attending and striking of special jury, with copies to each party	5	0
Every recognizance entered in court,	5	0
Drawing every postea and judgment,	13	4
Writ of execution,	5	0
Exemplifications and copies of all records, for each sheet containing 72 words,	1	0
Searching records for any one year,	1	0
General search,	2	6
Entering satisfaction on record,	2	6
Writ of execution, possession, restitution,	5	0

MARSHALL.

Entry of every cause,	2	6
Drawing the jury,	2	6
Entry of verdict,	2	6

CRIER.

Calling and swearing each jury,	2	0
Calling Plaintiff on nonsuit,	1	0
Proclamation calling any party on recognizance,	1	0

SHERIFF.

Serving a writ,	2	6
Arrest,	5	0
Bail Bond,	5	0
Poundage on execution,	0	6
When for a sum exceeding 100l.	0	3
Service of writ of possession, or restitution,	10	0
Bringing up prisoner by habeas corpus, in civil cause,	12	0
Travelling per mile,	0	6
Executing writ of enquiry, summoning jury, and return of inquisition,	10	0
Attending view per diem,	15	0

CHAP. III.

An ACT *to eſtabliſh a Court for the Cognizance of Small Cauſes in each and every Diſtrict of this Province.*

Preamble.

FOR the more convenient adminiſtration of juſtice in ſmall cauſes, in each diſtrict of this Province; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled, by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That there be conſtituted and eſtabliſhed, and there is hereby conſtituted and eſtabliſhed, in each and every diſtrict, a court which ſhall have cognizance in all actions of contract, for ſums above forty ſhillings, not exceeding the ſum of fifteen pounds, to be known by the name and ſtyle of the Diſtrict Court, of each reſpective diſtrict, and ſhall be holden by one or more judge or judges, to be appointed by commiſſion, under the great ſeal of the Province.

Eſtabliſhment and juriſdiction of the diſtrict courts.

Terms, or periods of ſitting thereof.

II. And for the regular diſpatch of buſineſs, Be it further Enacted, That there be appointed four periods of ſitting, or terms for the ſaid court, in each and every year, which terms ſhall ſeverally commence on the Monday in the week next but one preceding the week in which the Quarter Seſſions are reſpectively holden, in each diſtrict, and ſhall end on the Saturday in the ſame week, which courts ſhall be ſeverally holden in the reſpective town, townſhip or place wherein the court-houſe for the diſtrict is directed to be built, excepting in the Weſtern diſtrict, where the ſaid court ſhall be holden in the town of *Detroit*.

Courſe of proceeding therein.

III. *And be it further Enacted by the Authority aforeſaid*, That the courſe of proceeding in the ſaid court ſhall be by ſummons, iſſuing in the King's name, returnable on ſome day in the ſaid term, and bearing teſte in the name of the firſt judge of the court, which may be in the following form:

Form of Summons.

DISTRICT } *GEORGE the Third, by the grace of God, of Great Britain,*
to wit. } *France and Ireland, King, Defender of the Faith, and ſo*
forth, &c.

To A. B. Greeting.

We command you, that you do either in perſon or by your attorney appear at our Diſtrict Court to be holden at on the day of to anſwer the complaint of C. D. in a plea of contract, whereby you have promiſed to pay him the ſum of £ for (the conſideration) and which you refuſe to pay him as he ſays: witneſs E. F. judge of the ſaid court, this day of in the year

Service of ſuch proceſs,

IV. *And be it further Enacted*, That the ſaid proceſs ſhall be ſerved on the defendant or defendants by a literate perſon at leaſt eight days before the return thereof, and in caſe the ſaid defendant or defendants ſhall not appear in court either in perſon, or by attorney, on the return of the proceſs, it ſhall and may be lawful for the ſaid plaintiff or his attorney, on the day next after ſuch return day, upon affidavit made of the ſervice of ſuch proceſs, to enter an appearance for ſuch defendant or defendants, and on the day next after the entry of ſuch appearance,

Appearance by plaintiff in default of defendant.

appearance, in caſe the defendant ſhall not have appeared and diſcharged the coſts of ſuch entry either in perſon or by attorney, it ſhall and may be lawful for the plaintiff to ſign judgment, and ſue out a writ of inquiry of damages, directed to the ſheriff of the diſtrict, to be executed on ſome given day, in the courſe of the week in which the quarter ſeſſions are holden next enſuing, and returnable the firſt day of the following term.

writ of enquiry.

V. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the defendant or defendants, his or their attorney, to appear on the return day of the writ, and file his plea, on or before the third day after ſuch appearance, which, in caſe he means to defend the ſuit and to plead the general iſſue, may be in the following form; "The ſaid C. D. appears in perſon or by G. H. his attorney, and ſays he made no ſuch promiſe;" and in default of a plea, upon the third day after ſuch appearance, it ſhall and may be lawful for the plaintiff to ſign judgment.

Appearance and plea of defendant.

Judgment in default of a plea.

VI. *Provided always*, That where there are mutual debts between plaintiff and defendant, or if either ſue or be ſued, as executor or adminiſtrator, when there are mutual debts between teſtator and inteſtate and the other party, one debt may be ſet againſt the other, and ſuch matter may be given in evidence on the general iſſue, ſo as at the time of pleading the general iſſue, when any ſuch debt is to be inſiſted on in evidence, notice be given of the particular ſum or debt ſo intended to be inſiſted on, and on what account it became due.

A ſett off admiſſible, on due notice.

VII. *And be it further Enacted by the Authority aforeſaid*, That in all caſes where the defendant or defendants ſhall enter, or cauſe his or their appearance to be entered at the return of the writ, it ſhall and may be lawful for him or them, on motion made in court, to be ſupported by affidavit, to apply for further time to put in their plea, which motion the court ſhall be at liberty to grant, where ſufficient cauſe ſhall be ſhewn, and alſo to impoſe ſuch terms on the defendant as juſtice may require.

On motion, duly ſupported, the court may grant further time to plead.

VIII. *And be it further Enacted*, That four days notice of trial ſhall be given to the defendant or defendants of every iſſue to be joined in the ſaid court, which notice may be lawfully countermanded, provided ſuch countermand be ſerved on the defendant or his attorney two days before the expiration of the notice.

Notice of trial & countermand thereof.

IX. *Provided always, and be it further Enacted*, That when the plaintiff having given notice of trial, and not having countermanded the ſame within the time aforeſaid, ſhall neglect to enter the cauſe and bring forward the ſaid iſſue for trial, he ſhall pay to the defendant or defendants all reaſonable coſts and charges by him incurred on account of ſuch notice; and in caſe the ſaid plaintiff ſhall not give freſh notice of the trial of the ſaid iſſue, on or before the third day of the term next enſuing, it ſhall and may be lawful for the defendant to move for, and the court to give the like judgment as in caſe of a non-ſuit.

Proviſions in caſe of not bringing the iſſue to trial, after having given notice, and no countermand.

X. And to the end that the trial of all iſſues to be joined in the ſaid court, as well as the execution of all writs of inquiry, to be ſued out upon judgments obtained by default, as aforeſaid, may be had at the moſt convenient time and place, it ſhall and may be lawful for the judge preſiding in the ſaid court, to iſſue his precept to the ſheriff of the diſtrict, at leaſt ſeven days before the week in which the ſeſſions are holden, requiring him to ſummon, and the ſaid ſheriff ſhall, and is hereby required upon receipt of ſuch precept, to ſummon not leſs than thirty-ſix, nor more than forty-eight jurors, living within the ſaid diſtrict, to be and appear in the town or place where the quarter ſeſſions are uſually holden,

Manner, time & place of ſummoning jurors to try the iſſues, and to execute writs of inquiry.

den, on the same day on which the said sessions do severally commence to be holden, from whom a jury shall be taken for the trial of each issue, in like manner as directed in all causes to be tried at nisi prius; and each person sworn for the trial of any issue joined, shall be intituled to receive six-pence and no more.

Fee for each juror.

Final judgment and execution.

XI. *And be it Enacted*, That in all cases when the verdict of the jurors shall be for the plaintiff, it shall and may be lawful for the plaintiff or his attorney to sign judgment on the third day of the term next after the giving of the said verdict, and to proceed to sue out execution immediately.

Motion in arrest of judgment, or for a new trial.

XII. *Provided always*, That when the party defendant shall have any material or just cause to shew why judgment should be arrested, or a new trial had, it shall and may be lawful for him, either in person or by attorney, on the first or second day of the term, next ensuing the said verdict, to move the court, on grounds to be supported by affidavit, for a rule to shew cause to the effect abovementioned; and in case the court shall see sufficient grounds for the granting of such rule, notice thereof shall be served on the party plaintiff or his attorney, and on hearing the parties, the said rule shall be made absolute or discharged in the course of the said term.

Fees.

XIII. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the persons herein after named, to demand and receive the following fees and no more, for the services herein after set forth:

ATTORNEY.

Attorney's.

	s.	d.		s.	d.
Instructions to sue or defend,	5	0	Notice,	1	0
Declaration,	4	0	Motion of course,	2	6
Plea,	2	6	Special motion,	5	0
Entering appearance by the plaintiff,	2	6	Brief and fee thereon,	10	0

Sheriff's.

SHERIFF.

For every jury sworn,	4	0	Poundage, 2 1-2 per cent.		
Every execution,	5	0	Milage, four pence per mile.		

Clerk's.

CLERK.

For filing declaration,	2	0	Taking verdict,	2	6
For filing each paper,	1	0	Entering postea and judgment,	2	6

Crier's.

CRIER.

For swearing jury, 15. 0*d*.

Judge's.

JUDGE.

On every declaration filed,	2	6	For signing judgment,	10	0
Rule of court on all special motions,	5	0			

CHAP. IV.

An ACT *to authorize the Governor or Lieutenant Governor to Licence Practioners in the Law.*

Preamble.

WHEREAS much inconvenience may ensue from the want of persons duly authorized to practise the profession of the law in this Province; be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled, by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, intituled an Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for

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," and by the authority of the same, That the operation and effect of the provisions contained in a certain Act or ordinance of the late Province of *Quebec*, passed in the twenty-fifth year of his Majesty's reign, intituled, "An Act, concerning Advocates, Attornies, Solicitors and Notaries, and for the more easy collection of his Majesty's Revenues," so far forth as the same regards the regulations, concerning Advocates, Attornies, Solicitors and Notaries be suspended, and the same is hereby suspended, for and during the term of two years from the passing of this Act.

Suspension, for two years of part of the ordinance of Quebec, respecting attornies, &c.

II. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the government of this Province, to authorize by licence, under his hand and seal, such and so many of his Majesty's liege subjects, not exceeding sixteen in number, as he shall deem, from their probity, education, and condition in life, best qualified to act as Advocates and Attornies, in the conduct of all legal proceedings in this Province; and that upon producing such licence to the proper officer, their names shall be inscribed on a roll for that purpose, to be provided, and to be kept among the records of the Court of King's Bench; and each and every person whose name shall be so inscribed, and no other, shall be holden as duly authorized to receive fees for practising in any of his Majesty's courts within this Province.

Persons duly qualified, to be licensed, to a certain number, as advocates and attornies.

Enrolled,

and authorized to receive fees accordingly.

III. *Provided always, and be it Enacted*, That in case any person or persons so licenced and enrolled, shall be guilty of any malversation or corrupt practice, and the same shall be proved, by evidence, to the satisfaction of the court of King's Bench, it shall and may be lawful for the said court to order his or their name or names to be struck off the roll.

But may be struck off by the court, on satisfactory evidence of corrupt practices.

IV. *Provided also, and be it further Enacted*, That nothing herein contained shall prevent, or be construed to prevent any person duly qualified according to the provisions in the said Act or ordinance contained, from being admitted to the exercise of the practice of the law, conformably to the said Act, and that at and after the expiration of the said two years, the said Act or ordinance shall again be in force, until other or further provision be made for the like purposes.

Persons admissible by the ordinance, not disqualified by this Act.

Revival of the ordinance.

V. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the secretary of the Governor, Lieutenant Governor, or person administering the government of this Province, to demand and take the sum of forty shillings on the delivery of each and every such licence, and for the clerk of the court of King's Bench, to demand and take the sum of thirteen shillings and four-pence, for inscribing the name of each and every person so licenced upon the roll.

Fees for each licence and for enrollment.

VI. *Provided always, and be it Enacted*, That the clerk of the court shall, and is hereby required, to inscribe on the said roll, the name of each and every person duly qualified, according to the provisions in the said Act or ordinance contained, without any gratuity or fee whatever.

The names of persons authorized according to the ordinance to be enrolled gratis.

CHAP. V.

An ACT *to Provide for the Accounting for all Fines, Forfeitures and Penalties hitherto reserved to his Majesty, to and for the Uses of this Province.*

Preamble.

WHEREAS his Majesty, by his royal instructions, hath been graciously pleased to direct that all laws or ordinances of this Province, for levying of monies, or imposing of fines, forfeitures and penalties should mention

and declare the ſame to be granted or reſerved to his Majeſty, his heirs and ſucceſſors, for the public uſes of the ſaid Province, and for the ſupport of the government thereof, as by the ſaid laws or ordinances may be directed; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the due application of all monies heretofore granted or reſerved, and ariſing or accruing to his Majeſty, for the purpoſes aforeſaid, by any Act or Acts of the Legiſlature of this Province, heretofore made, ſhall be accounted for unto his ſaid Majeſty, through the commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as his Majeſty ſhall direct; any thing in any former Act or ordinance or clauſe in any Act or ordinance to the contrary hereof in any wiſe notwithſtanding.

The application of all monies levied for the uſes of the province; and of fines, &c. to be accounted for to his Majeſty.

CHAP. VI.

An ACT *to amend certain parts of an Act paſſed in the thirty third year of the Reign of his preſent Majeſty, intituled, "An Act to authorize and direct the laying and collecting of Aſſeſſments and Rates, in every Diſtrict within this Province, and to provide for the Payment of Wages to the Members of the Houſe of Aſſembly."*

Preamble.

WHEREAS the proviſions contained in a certain Act paſſed in the laſt ſeſſions, intituled, "An Act to authorize and direct the laying and collecting of Aſſeſſments and Rates in every Diſtrict within this Province, and to provide for the Payment of Wages to the Members of the Houſe of Aſſembly," have been found to be not ſufficiently comprehenſive; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That in addition to the eight claſſes by the ſaid Act directed to be made out, it ſhall and may be lawful for the aſſeſſors of every pariſh, townſhip, reputed townſhip or place, to be nominated and appointed for the enſuing year, and they are hereby required to make out a ninth claſs, containing the names of ſuch inhabitant houſeholders thereof, as the ſaid aſſeſſors to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects, to the value of four hundred and fifty pounds, and not amounting to five hundred pounds.

A 9th claſs of inhabitant houſe holders to be added to the former claſſes.

II. And further to make out a tenth claſs, containing the names of ſuch inhabitant houſeholders as the ſaid aſſeſſors, to the beſt of their knowledge and judgment, believe to be poſſeſſed of real or perſonal property, goods or effects to the value of five hundred pounds, and not amounting to five hundred and fifty pounds;

And alſo a 10th claſs.

pounds; and further to make out a list of all such inhabitant householders as aforesaid, as the said assessors to the best of their knowledge and judgment, believe to be possessed of real or personal property, goods or effects, above the value of five hundred pounds, specifying the particular amount of the value of the real or personal property, goods or effects, of the said persons, according to the best of the knowledge and judgment of them the said assessors, which list shall be known and called by the name of Upper list.

and a further list to be called the Upper list.

III. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the collector of each parish, township, reputed township or place, to be nominated and appointed for the ensuing year, and he is hereby authorized, to demand and receive for the year ensuing the twenty-fifth of March next, of every inhabitant householder, whose name shall be included in the said ninth class, the sum of one pound two shillings and six-pence, as his rate or proportion of the district assessment to be levied for the said year.

Rate to be paid by each person classed in the 9th class.

IV. And also to demand and receive for and during the time aforesaid, of every inhabitant householder, whose name shall be included in such tenth class, the sum of one pound five shillings, as his rate or proportion of the district assessment to be levied for the said year.

Rate to be paid by each person classed in the 10th class.

V. And also to demand and receive for and during the time aforesaid, of every inhabitant householder, whose name shall be included in the said Upper list, a sum to be calculated at and after the rate of five shillings for every hundred pounds, at which he shall stand assessed in manner aforesaid.

Rate to be paid by each person included in the Upper List.

VI. And whereas every inhabitant householder within this Province, possessed of a location or lot of land, by his Majesty's bounty, or otherwise, may by his honest industry, support himself, and at the same time contribute something to the public stock of the district; Be it enacted that the appellation of the excused list, by the said abovementioned act, directed to be given to the list containing the names of the persons therein specified, do cease and determine; and that such list be continued to be made out, and be called the Under List; and that every inhabitant householder within this Province, whose name shall be included in the said Under List, shall for the said year ensuing, contribute and pay the sum of two shillings, towards the public stock of the district, to be proportionably diminished, in case it shall not hereafter be found necessary to impose an entire rate according to the provisions in the said Act in that behalf contained.

The appellation of the excused list to cease, & henceforth called the under list.

Rate to be paid by each person included therein.

VII. *And be it further Enacted*, That the several rates herein directed to be paid, shall be levied, collected, paid and recovered, subject to such provisions, means and penalties, as in and by the said Act abovementioned are recited and contained.

Means of levying the rates, by this Act directed to be paid.

CHAP. VII.

An ACT *for the further Regulation of the Militia of this Province.*

FOR the further regulation of the militia of this Province; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper-Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That in time of war,

Preamble.

Power to em-

ploy the militia in time of war, as well by land as by water.

when and ſo often as occaſion may require, it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, to employ the militia of this Province, either upon land, or upon the lakes, rivers and communications thereof, in ſuch parties or detachments as by him ſhall be deemed expedient.

Roſter for regulating the turn of duty.

II. And whereas by a certain Act intituled, "An Act for the better regulation of the militia of this Province," it is provided, that it ſhall and may be lawful for the perſons therein mentioned, on certain occaſions, to call out detachments of the militia; Be it therefore enacted by the authority aforeſaid, That the perſons to ſerve on ſuch detachments, ſhall be regularly taken from time to time as they ſhall be required, from a roſter or liſt to regulate the turn of duty, to be firſt formed by ballot, of each and every perſon in each reſpective battalion, regiment or independent company, and that after the ſame has been formed, when any perſon ſhall be enrolled as a militia man in any battalion, regiment or independent company, the name of ſuch man ſhall be inſerted and follow the laſt perſon in the ſaid roſter, the initial of whoſe ſirname correſponds with the initial of the ſirname of the man ſo to be inſerted; and when any detachment ſhall be called out for ſervice, the adjutant or officer commanding each battalion, regiment or independent company, ſhall give notice to the perſons upon the turn for duty, and every perſon receiving ſuch notice ſhall obey the ſame, under the like penalties, and ſubject to the ſame exemptions, as in the ſaid Act abovementioned are ſet forth.

Manner of forming the ſame.

Notice to be given to the perſons on the turn for duty.

Power to ſtation the militia, in detachments by land or water, and to train them to the uſe of artillery.

III. *And be it further Enacted by the Authority aforeſaid*, That when any detachments are formed and called out for public ſervice, it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, to divide the ſame into ſmaller detachments or parties, and appoint them to ſerve on board veſſels, boats or batteaux upon any of the lakes, rivers or communications by water of this Province, with great guns or artillery, as well as with ſmall arms, as occaſion may require, and ſhall and may appoint them to be ſtationary in any of the creeks or harbors of the ſaid lakes, or in any of the rivers of the Province, and alſo to train and exerciſe the ſame to the uſe of great guns or artillery, as well by land as by water.

And to form, embody, and employ troops of horſe.

IV. And whereas it may be convenient when a ſufficient number of horſes can be provided, to form one or more troop or troops of perſons to ſerve as cavalry; Be it enacted by the authority aforeſaid, That it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, to form and embody ſuch troop or troops, and to employ the ſame on ſuch duties as the neceſſity of the ſervice may require.

Period of ſervice of detachments,

proviſion.

Meaſures to be taken to relieve detachments.

V. *And be it further Enacted by the Authority aforeſaid*, That all detachments to be called out and employed as aforeſaid, may and ſhall if need require, be detained on ſuch ſervice for and duriug the ſpace of ſix months at one time, and no longer, provided that every ſuch detachment be relieved by the arrival of a freſh detachment, ſufficient for the indiſpenſible occaſions of the ſervice at ſuch period, for which purpoſe it ſhall and may be lawful for the proper officer, one week at leaſt before the expiration of the ſaid period of ſervice, to call together the remaining parts of the ſaid each battalion, regiment or independent company, or ſo many as may be neceſſary according to their ſeveral terms, to be regulated by the roſter as aforeſaid, to relieve ſuch detachment.

VI. *Provided*

When they can only be partially relieved, the perſons to remain on ſervice ſhall be aſcertained by ballot.

VI. *Provided always, and be it further Enacted by the Authority aforeſaid*, That if ſuch detachments cannot be replaced by an equal number of men of the remaining part of ſuch battalion, regiment or independent company reſpectively, then and in ſuch caſe, every ſuch detachment to be relieved as aforeſaid, ſhall ballot or draw lots for ſuch a number of men as may be wanting to make the ſucceeding detachment, equal to the detachment relieved; and the parties whoſe names ſhall be drawn, ſhall be liable to ſerve with the ſaid detachment; but in caſe of a partial relief, they ſhall be the firſt to be ſo relieved either wholly or by ballot, according to the number to be relieved.

Duties required by this Act ſhall extend from the age of 16 years to 60.

VII. And whereas by the ſaid Act abovementioned, it is directed, that all perſons from the age of ſixteen years to fifty, ſhall be liable to the performance of the ſeveral duties therein mentioned and ſet forth; Be it enacted by the authority aforeſaid, That the duties herein required to be performed, be ſeverally and reſpectively extended to all perſons from the age of ſixteen years to ſixty.

Proviſion for perſons above the age of 50.

VIII. *Provided always*, That no perſon above the age of fifty years ſhall be called upon to bear arms, except on the day of the annual meeting, or in time of war or emergency.

And for Quakers, Menoniſts and Tunkers.

IX. *Provided alſo, and it is hereby further Enacted*, That each and every of the perſons uſually called Quakers, Menoniſts and Tunkers, that have attained the age of fifty years, ſhall not be liable to the payment of ſuch ſum of twenty ſhillings for being exempted from ſerving in the ſaid militia, in time of peace, but that in time of war or other emergency, they ſhall be liable to ſerve, or to the payment of five pounds for being exempted for every year, until they ſhall have attained the age of ſixty years.

CHAP. VIII.

An ACT *to reſtrain the cuſtom of permitting Horned Cattle, Horſes, Sheep and Swine to run at large.*

Preamble.

WHEREAS the cuſtom of allowing horned cattle, horſes, ſheep and ſwine to run at large, has been found occaſionally inconvenient and detrimental; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, it ſhall not be lawful for any perſon or perſons to permit any horned cattle, horſe, ſheep or ſwine to run at large, otherwiſe than under the regulations and reſtrictions herein after provided.

Cattle henceforth not to run at large, but under certain regulations.

Which regulations ſhall be made in the reſpective town meetings annually.

II. *And be it further Enacted*, That henceforth it ſhall and may be lawful for the inhabitant houſeholders, or the greater part of them, in every diſtrict within this Province, in their annual town meetings lawfully aſſembled, to aſcertain and determine in what manner and at what periods, horned cattle, horſes, ſheep and ſwine, or any of them, ſhall be allowed to run at large, within their reſpective diviſions, or to reſolve that the ſame, or any part thereof, ſhall be reſtrained from ſo doing.

Cattle treſpaſſing to be im-

III. *And be it further Enacted*, That if any horned cattle, horſe, ſheep or ſwine

pound ed, until the damages done and the pound-keeper's fees be paid,

ſwine be found running at large in any town, townſhip, reputed townſhip or place, contrary to the regulations of the town meeting thereof; it ſhall and may be lawful for any of the pound-keepers thereof, and on receiving notice, he is hereby required to impound ſuch horned cattle, horſe, ſheep or ſwine ſo treſpaſſing, and to detain the ſame, until the perſon or perſons who may have ſuſtained any damage by the treſpaſs of the ſame, ſhall have received from the owner or owners of ſuch horned cattle, horſe, ſheep or ſwine, reaſonable compenſation, and until the fees of ſuch pound-keeper ſhall have been ſatisfied, which fees his Majeſty's juſtices of the peace in their general quarter ſeſſions aſſembled, or the greater part of them, are hereby authorized and required to regulate and aſcertain, in and for their reſpective diſtricts; any thing in any Act or Ordinance of the late Province of *Quebec*, or in any Act of the legiſlature of this Province to the contrary of the proviſions of this Act in any wiſe notwithſtanding.

Which fees ſhall be regulated in quarter ſeſſions.

CHAP. IX.

An ACT *to repeal certain parts of an Act paſſed in the Second Seſſion of the Legiſlature of this Province, intituled, "An Act to regulate the laying out, "amending, and keeping in Repair the Public Highways and Roads within "this Province," and to make further Proviſions reſpecting the ſame.*

Preamble.

WHEREAS by an Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to regulate the laying out, amending and keeping in repair the public highways and roads within this Province," It was provided, that it ſhould not be lawful for any owner or occupier of lands adjoining to his Majeſty's highway or road, to girdle or cauſe to be girdled, any tree ſtanding upon ſuch lands within the diſtance of thirty yards from the ſide of the ſaid road, and that from and after the firſt day of September, that will be in the year one thouſand ſeven hundred and ninety-four, if any girdled tree or dead tree ſhall be found ſtanding within thirty yards of the ſaid road, it ſhall and may be lawful for any perſon taking with him a credible witneſs to give a verbal or written notice to the owner or occupier of the ſaid lands, to cut down or remove ſuch girdled or dead tree or trees, and in caſe any owner or occupier of the ſaid lands, ſhall neglect or refuſe to cut down or remove any ſuch tree by the ſpace of thirty days, after ſuch notice as aforeſaid, he ſhall forfeit and pay the ſum of ten ſhillings for every day that the ſaid tree or trees ſhall be ſuffered to remain uncut or unremoved, after the expiration of ſuch period as aforeſaid; which penalty ſhall be levied and applied in manner and for the purpoſes therein after mentioned; and whereas ſuch proviſion is found to be inexpedient; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That ſuch part of the ſaid clauſe as herein before is mentioned and ſet forth, ſhall be, and the ſame is hereby repealed.

Recital of Act 33 Geo. 3.

The ſame repealed in as far as recited.

II. *And be it further Enacted*, That it ſhall and may be lawful for the magiſtrates,

But to revive

trates, in quarter ſeſſions aſſembled, or the greater part of them, upon preſentment made by the grand jury then and there attending, that any tract of country along the road ſide, the limits whereof ſhall be particularly ſet forth, is in ſuch a progreſſive ſtate of cultivation, that the adopting of the proviſion of the ſaid Act herein before repealed will be no longer inexpedint, by an order in ſeſſion to declare the ſame, and that the proviſion in the ſaid Act contained, ſhall be renewed and enforced throughout the ſaid tract or portion of country comprehended and ſpecified in the ſaid preſentment; and the ſaid proviſions ſhall by virtue of ſuch order of ſeſſions be renewed and enforced accordingly.

progreſſively on preſentment of juries and order of ſeſſions thereupon.

CHAP. X.

An ACT *to amend certain parts of an Act paſſed in the thirty-ſecond year of His Majeſty's Reign, intituled, "An Act for Building a Gaol and Court-Houſe "in every Diſtrict throughout this Province, and for altering the Names of "the ſaid Diſtricts."*

WHEREAS it is neceſſary for the eaſe of the inhabitants of the Eaſtern diſtrict, that two gaols and court-houſes ſhould be built therein; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That in addition to the abovementioned Act which authorizes and directs that a goal and court-houſe for the Eaſtern diſtrict, ſhall be built in manner therein mentioned, in the town of *New-Johnſtown* in the townſhip of *Edwardſburgh*, it ſhall and may be lawful for the inhabitants of the Eaſtern diſtrict, to erect and build, or cauſe to be erected and built in the town of *Cornwall*, a gaol and court-houſe, after the manner and under the rules, regulations and conditions appointed and preſcribed, by the abovementioned Act, paſſed in the thirty-ſecond year of his Majeſty's reign as aforeſaid.

Preamble.

A gaol and court-houſe to be erected in the town of Cornwall, in the Eaſtern diſtrict.

II. *Provided always*, That all and every the ſum and ſums of money that ſhall or may heretofore have been received and collected under and by virtue of an Act paſſed in the thirty-third year of the reign of our Lord the King, intituled, "An Act to authorize and direct the laying and collecting of aſſeſſments and rates in every diſtrict within this Province, and to provide for the payment of wages to the members of the houſe of aſſembly," and intended to be applied to and for the erecting and building of a gaol and court-houſe in the town of *New-Johnſtown*, under and by virtue of the ſaid Act, paſſed in the thirty-ſecond year of his Majeſty's reign as aforeſaid, as well as all and every the ſum and ſums of money that ſhall and may, by virtue of the abovementioned Act, hereafter to be received and collected (and to be applied as aforeſaid) ſhall and may be equally divided and diſpoſed of, as well for and towards the erecting and building of a new gaol and court-houſe in the ſaid town of *Cornwall*, as in the erecting and building of the ſaid gaol and court houſe appointed to be erected and built in the ſaid town of *New-Johnſtown* as aforeſaid.

Funds for erecting the ſaid gaol and court-houſe and ſupporting the future expenditures thereof.

III. *And*

The application and diſtribution of ſuch funds to be cognizable in quarter ſeſſions.

III. *And be it further Enacted by the Authority aforeſaid*, That his Majeſty's juſtices in their quarter ſeſſions aſſembled, in and for the ſaid Eaſtern diſtrict, ſhall and may enquire as often as to them ſhall ſeem neceſſary, of and concerning all ſums of money that ſhall and may heretofore have been received and collected, or ſhall and may hereafter be received and collected, under and by virtue of the aforeſaid Act, paſſed in the thirty-third year of his Majeſty's reign, and to be applied as aforeſaid, and an equal diviſion and diſtribution of the ſame ſhall make, towards the erecting and building of the ſaid gaols and court-houſes, in the reſpective places herein before appointed for the building of the ſame.

The ſheriff to nominate the gaoler, &c.

IV. *And be it further Enacted*, That the ſheriff of the ſaid diſtrict ſhall have the ſame power and authority to nominate and appoint ſuch perſon as he ſhall judge moſt proper to the office of gaoler and keeper of the gaol and court-houſe at *Cornwall*, as well as to do all other matters and things neceſſary to be done reſpecting the government of the ſaid gaol and court-houſe at *Cornwall*, as he had, by virtue of the ſaid Act, to regulate the gaol and court-houſe of *New-Johnſtown*.

Th gaol and court-houſe to be under the eſtabliſhed rules and regulations.

V. *And be it further Enacted by the Authority aforeſaid*, That all and every the rules, regulations and conditions, reſpecting the management and government of the gaols in each diſtrict, as they are preſcribed in the aforeſaid Act, paſſed in the thirty ſecond year of his Majeſty's reign, ſhall extend and be conſtrued to extend to the management and government of the ſaid gaol, as in and by this Act is allowed to be erected and built in the ſaid town of *Cornwall* in the Eaſtern diſtrict as aforeſaid.

CHAP. XI.

An ACT *to lay and collect a Duty upon Stills.*

Preamble.

WHEREAS for the better ſupport of the government of this Province, it is expedient to increaſe the revenues thereof; We your Majeſty's moſt dutiful and loyal ſubjects, the repreſentatives of the people of the Province of *Upper Canada*, in aſſembly met, do moſt humbly beſeech your Majeſty that it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the fifth day of April next, there ſhall be raiſed, levied, collected and paid yearly and every year, unto his Majeſty, his heirs and ſucceſſors, to and for the uſes of this Province, and towards the ſupport of the civil government thereof: of and from all perſons having and uſing a ſtill or ſtills, or hereafter to have and uſe a ſtill or ſtills, for the purpoſe of diſtilling ſpirituous liquors for ſale, a ſum not exceeding one ſhilling and three pence lawful money of this Province, for every gallon which the body of ſuch ſtill or ſtills ſhall or may be capable of containing, in manner herein after mentioned.

Duty to be paid for every gallon which a ſtill, in uſe, is capable of containing.

II. And whereas it is expedient to make proviſion for the ſervice of the current

rent year, Be it enacted by the authority aforeſaid, That the ſaid duties ſhall begin and be payable for the ſeven months which will elapſe between the fifth day of September, and the fifth day of April next enſuing the paſſing of this Act, to be paid at and after the rate of ſeven pence half-penny lawful money as aforeſaid, per gallon, in manner herein after mentioned.

Proviſion for the current year, to determine in April.

III. And in order that the ſize of the ſeveral ſtills to be employed for the purpoſes aforeſaid, may be more truly aſcertained, and the duties to be impoſed thereon more eaſily collected; Be it enacted by the authority aforeſaid, That from and after the fifth day of November next, it ſhall not be lawful for any perſon to make uſe of any ſtill or ſtills, for diſtilling ſpirituous liquors for ſale, until he ſhall have obtained a licence for that purpoſe; and every perſon deſirous of obtaining ſuch a licence, ſhall, in a written requiſition for the ſame, to be made in manner hereafter mentioned, ſpecify and ſet forth the number of gallons which the body of the ſtill or ſtills he propoſes to uſe, does or do contain, which ſpecification ſhall be inſerted in the licence to him to be granted; and in caſe any perſon ſhall make uſe of any ſtill for the purpoſe of diſtilling ſpirits for ſale without having obtained ſuch licence, or ſhall make uſe of any ſtill or ſtills for the purpoſe of diſtilling ſpirits, of larger dimenſions than that or thoſe ſpecified in his licence or requiſition, or ſhall have in his poſſeſſion any ſtill or ſtills erected or ſet up over a furnace or fire-place, ſo as the ſame may be uſed for diſtilling, capable of containing ſingly or together a greater number of gallons in the body or bodies thereof, than the number of gallons ſpecified and ſet forth in his licence or requiſition, and be thereof lawfully convicted by confeſſion, or on the oath of one credible witneſs before any of his Majeſty's juſtices of the peace, he ſhall forfeit and pay for every ſuch offence the ſum of ten pounds lawful money as aforeſaid, to be levied by diſtreſs and ſale of the offenders goods and chattels, one half of which ſaid ſum of ten pounds, ſhall be given to the perſon or perſons informing, and the other half paid into the hands of his Majeſty's receiver general, to and for the public uſes of this Province; and that the ſtill or ſtills ſo employed ſhall be forfeited to his Majeſty, and that the party having uſed the ſame ſhall be incapable of obtaining a licence for the purpoſe of diſtilling ſpirituous liquors for ſale, for and during the term of three years.

Method of aſcertaining the contents of rateable ſtills.

Penalty for uſing or having in a ſituation to be uſed, ſtills of larger dimenſions than ſpecified in the licence.

IV. *And be it further Enacted by the Authority aforeſaid*, That the ſecretary of the Province for the time being, ſhall and may by himſelf and agents for that purpoſe to be duly appointed in each and every diſtrict of this Province, iſſue all licences for the purpoſe abovementioned, upon ſuch requiſition as aforeſaid, which may be in the following form:

Licences to be iſſued by the ſecretary.

" I H. B. do require a licence for uſing a ſtill, the body of which is ca-
" pable of containing gallons and no more, (and in caſe more
" than one ſtill is intended to be uſed) and alſo for another ſtill, the
" body of which is capable of containing gallons and no more,
" for the year enſuing the fifth day of April next, as witneſs my hand
" H. B. this day of

" To the ſecretary of the Province of *Upper Canada*,
" or his agent for the diſtrict."

Form of requiſition for ſuch licences.

V. *And be it further Enacted*, That every ſuch requiſition, ſigned by the party as aforeſaid, ſhall be carefully filed and preſerved by the ſaid ſecretary, or his reſpective agent duly appointed, (which appointment ſhall by the ſaid

Such requiſitions to be filed & copies thereof granted, when required.

ſecretary be publicly notified in the *Upper Canada Gazette*) and the ſaid ſecretary and each of his ſaid agents, ſhall, upon application to any of them for that purpoſe made, grant to every perſon deſiring the ſame, a true copy of any ſuch requiſition filed in his office, on payment of one ſhilling by the party applying for the ſame, which copy ſhall be ſigned by the ſaid ſecretary or his agent, and ſhall be held and taken as lawful evidence of ſuch requiſition or licence, for all purpoſes whatever.

Time of applying for licences.

VI. *And be it further Enacted by the Authority aforeſaid*, That all perſons deſirous of obtaining ſuch licence as aforeſaid, ſhall make ſuch application as herein before is ſet forth, ſo that they may be ſupplied with the ſame, on or before the fifth day of September next enſuing, and to the end that the public may be informed where to apply for ſuch purpoſe; the ſecretary of the Province ſhall, and is hereby required to give notice in the *Upper Canada Gazette*, or otherwiſe, at leaſt ſix weeks next before the ſaid fifth day of September, and hereafter yearly and every year at leaſt one month before the fifth day of April, ſetting forth at what place and by whom ſuch licences are to be iſſued in every diſtrict in this Province; and alſo the penalties to be incurred by ſuch perſons as ſhall refuſe or neglect to comply with the proviſions herein contained, and the ſaid ſecretary, and his agents in their reſpective diſtricts, ſhall upon ſuch requiſition as aforeſaid, make out and deliver to every perſon applying for the ſame, upon payment of the ſum of ſeven pence half-penny per gallon as herein before mentioned, a licence for the purpoſe of diſtilling ſpirituous liquors for a period of ſeven months, which ſhall expire on the fifth day of April next.

Public notice to be given by the ſecretary.

Duty for the current ſeven months.

Duty for every enſuing year.

VII. *And be it further Enacted by the Authority aforeſaid*, That all licences to be granted for the purpoſes aforeſaid, after the ſaid fifth day of April next, ſhall be dated on the ſixth day of April in the year in which they are iſſued, and ſhall expire on the fifth day of April next enſuing the date thereof, and that it ſhall and may be lawful for the ſaid ſecretary or his agents to demand and receive from every perſon requiring ſuch licence, the ſum of one ſhilling and three pence for every gallon which the body of the ſtill or ſtills ſo licenced ſhall be capable of containing, according to the ſpecification in the ſaid licence contained.

Fees.

VIII. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the ſaid ſecretary and each of his agents ſeverally, to demand and take the ſum of two ſhillings and ſix pence and no more, as his fee upon the iſſuing of every ſuch licence as aforeſaid.

Stills containing leſs than 10 gallons not to be licenced to diſtil ſpirits for ſale.

Penalty.

IX. *And be it further Enacted by the Authority aforeſaid*, That it ſhall not be lawful for the ſaid ſecretary or any of his agents, to grant a licenee for the working of any ſtill, unleſs the body thereof be capable of containing at leaſt ten gallons wine meaſure, and if any perſon ſhall uſe a ſtill for the diſtilling of ſpirituous liquors for ſale, the body of which is not capable of containing ten gallons, and be thereof lawfully convicted, by confeſſion or by the oath of one credible witneſs, before any one of his Majeſty's juſtices of the peace, he ſhall forfeit and pay for every ſuch offence the ſum of ten pounds, one half of which ſhall be paid to the informer, and the other half into the hands of his Majeſty's receiver general, to and for the public uſes of this Province, and the ſupport of the government thereof.

Search warrant to be granted on affidavit.

X. And in order to prevent fraud in the matters aforeſaid, Be it enacted by the authority aforeſaid, That it ſhall and may be lawful for any of his Mrjeſty's juſtices of the peace, upon oath firſt to be made by any credible perſon, that ſuch perſon has good reaſon to believe that the ſtill or ſtills employed by any licenced perſon, does or do contain a greater number of gallons in the body or bodies thereof, than what is

ſpecified

ſpecified in his requiſition or licence, to grant a ſearch warrant to a peace officer; taking with him the party making oath as aforeſaid, and any one other perſon for the purpoſe of examining the ſtill houſe or other place, where any ſtill or ſtills may be ſet up, and of meaſuring or guaging the bodies thereof; Provided always, that no ſuch warrant be executed before ſun riſe, or after ſun ſet.

Diſtillers not to retail, nor to be licenced to retail.

XI. *And be it further Enacted by the Authority aforeſaid,* That it ſhall not be lawful for any perſon working any licenced ſtill or ſtills as aforeſaid, to ſell or barter any quantity of ſuch diſtilled liquor leſs than three gallons, nor ſhall it be lawful for the ſecretary of the Province or any of his agents, to grant a licence for the purpoſe of diſtilling ſpirituous liquors to any perſon or perſons, licenced at the ſame time to retail ſpirituous liquors, or to grant a licence for retailing ſpirituous liquors, to any perſon or perſons licenced at the ſame time to diſtill ſpirituous liquors.

Payment of the monies into the hands of the receiver general.

XII. *And be it further Enacted by the Authority aforeſaid,* That all monies which ſhall be received by the ſecretary of the Province or his agents, under and by virtue of this Act, for licences, to commence on the fifth day of September next, ſhall be paid by the ſaid ſecretary into the hands of the receiver general of this Province, on or before the twentieth day of May and that all monies hereafter to be received by virtue of this Act, for licences, to commence on the ſixth day of April, ſhall be paid in to the ſaid receiver general, on or before the twenty firſt day of June next enſuing, and that all monies that may be received by virtue of this Act after the ſaid twenty-firſt day of June in each and every year ſucceſſively, be paid in to the receiver general, on or before the fifth day of April next enſuing.

Poundage of the receiver general.

XIII. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful to and for the receiver general, as treaſurer of this Province, to deduct from and out of the ſeveral ſums of money to him paid by the ſecretary of the Province, under and by virtue of this Act, the ſum of three pounds, for every hundred pounds by him received as aforeſaid.

Accounting of monies.

XIV. *And be it further Enacted by the Authority aforeſaid,* That all the fines, forfeitures and penalties that ſhall be incurred under this Act, ſhall be accounted for to his Majeſty, through the commiſſioners of his Majeſty's treaſury for the time being, in ſuch manner and form as his Majeſty ſhall direct.

CHAP. XII.

An ACT *for regulating the manner of Licencing Public Houſes, and for the more eaſy convicting of Perſons ſelling Spirituous Liquors without Licence.*

Preamble.

WHEREAS the proviſions contained in a certain Ordinance of the late Province of *Quebec*, paſſed in the twenty-eighth year of his Majeſty's reign, intituled, "An Act or Ordinance for the better ſecurity of the revenue ariſing on the retail of wine, brandy, rum, or ſpirituous liquors, have been found inconvenient; and whereas it is expedient to make other and more eaſy regulations reſpecting the granting of licences to houſes of public entertainment; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That the ſaid Act or Ordinance ſhall be and the ſame is hereby repealed.

Recital of an Ordinance paſſed 28 Geo. 3.

The ſame repealed.

Certificates to be obtained by perſons, previous to their being licenced.

II. *And be it further Enacted by the Authority aforeſaid,* That from and after the twentieth day of March next, no licence ſhall be granted to any perſon to keep an inn or public houſe for the purpoſe of vending wines, brandy, rum, or other ſpirituous liquors; unleſs he ſhall firſt have obtained a certificate of his being a proper perſon to keep an inn or public houſe from the magiſtrates of the diviſion wherein he reſides or is about to reſide, to be granted to him as herein after ſpecified; and all licences which ſhall be hereafter granted to the contrary hereof, ſhall be null and void.

The number of inns may be limited by the magiſtrates.

III. *And be it further Enacted by the Authority aforeſaid*, That for the ſaid purpoſe, it ſhall and may be lawful for the magiſtrates acting in each and every diviſion of the ſeveral diſtricts of this Province, to limit the number of inns and public houſes in their ſeveral diviſions, and to appoint a day of public meeting in each diviſion in either of the two laſt weeks in the month of March in every year, at a convenient place within their ſeveral diviſions, by a warrant under their hands and ſeals, or under the hands and ſeals of any two of them, at leaſt ten days before ſuch meeting, directed to the high conſtable or other peace officer, requiring him to give notice in the moſt public manner of ſuch intended meeting, and then and there to hear and receive applications from all ſuch perſons as deſire to take out licences for opening inns or public houſes within their ſaid ſeveral diviſions, and the ſaid magiſtrates ſhall, upon hearing and receiving any application from any perſon praying to have a licence granted to him, enquire into the life, character and behaviour of the perſon ſo applying, and if it ſhall appear to the greater part of the juſtices then and there aſſembled, that it is expedient to increaſe the number of inns or public houſes, and that the party applying, is a ſober, honeſt and diligent man, and a good ſubject of our Lord the King, they ſhall then and there grant a certificate accordingly under the hands and ſeals of any two of them, which certificate ſhall enable the party holding the ſame, to apply for and take out a licence on or before the ſaid fifth day of April then next enſuing the date of the ſaid certificate, and ſuch certificate ſhall be a proper and ſufficient warrant for the ſecretary of the Province or his agent, to grant to the ſaid perſon holding the ſaid certificate, ſuch licence on receiving payment of ſuch duties as are already impoſed, or hereafter may be impoſed by law on the ſame.

Meeting of magiſtrates, annually in March, in order to determine upon applications for licences.

A certificate from the magiſtrates, ſo aſſembled, ſhall ſerve as a warrant to obtain a licence,

On payment of duties.

Reſtrictions in granting licences to perſons not licenced of the preceding year.

IV. *And be it further Enacted by the Authority aforeſaid*, That no certificate, to obtain ſuch licence, ſhall be granted to any perſon not licenced the year preceding, unleſs ſuch perſon ſhall produce to the juſtices at the ſaid meeting, ſhould they require it, a teſtimonial under the hands of the parſon and church or town wardens, or of four reputable and ſubſtantial houſeholders and inhabitants of the ſaid diviſion, wherein the ſaid inn or public houſe is intended to be kept; ſetting forth, that ſuch perſon is of good fame, ſober life and converſation, and that he has taken the oath of allegiance to our Sovereign Lord the King.

Proviſion for the aſſignees of inn-holders dying or removing.

V. *Provided nevertheleſs*, That if any licenced perſon ſhall die or remove from the inn or public houſe kept by him, it ſhall and may be lawful for the perſon ſucceeding to the occupancy of ſuch houſe, to keep on the ſaid inn or public houſe, during the reſidue of the term of ſuch licence, on condition that ſuch perſon ſhall obtain an aſſignment endorſed on the back of the licence granted to the perſon ſo deceaſed or removed; which aſſignment ſhall be executed in the preſence of a magiſtrate, and ſhall within thirty days after the death or removal of ſuch perſon obtain a teſtimonial as aforeſaid, in order to its being produced at the next diviſion meeting; and if ſuch aſſignment be not executed as aforeſaid, and ſuch teſtimonial obtained and ſigned within the ſaid thirty days, then and in ſuch caſe immediately from and after the expiration thereof, ſuch licence ſhall be null and void; and no licence ſo aſſigned ſhall entitle any perſon to keep an inn or public houſe in any other diviſion than that in which it was originally kept by virtue of the ſaid licence, ſuch licence being

with

with regard to all other places, and the ſame is hereby declared to be, null and void.

Recognizance to be entered into on obtaining a certificate.

VI. *And be it further Enacted by the Authority aforeſaid*, That every perſon obtaining ſuch certificate as aforeſaid, ſhall at the ſame time enter into ſuch recognizance as by a certain Act of the legiſlature of this Province, intituled, "An Act to eſtabliſh a further fund for the payment of the ſalaries of the officers of the legiſlative council and houſe of aſſembly, and for defraying the contingent expences thereof," is directed, and that the clerk of every diviſion meeting, or other perſon employed to draw out ſuch recognizance ſhall at the execution thereof, demand and take from the perſon acknowledging the ſame, over and above the fee by law directed to be taken for ſuch recognizance, the further ſum of one ſhilling, to be paid to the clerk of the peace for filing the ſame, and the clerk of every diviſion meeting, or other perſon drawing the ſaid recognizance, ſhall and is hereby required to deliver or tranſmit the ſame to the clerk of the peace of the diſtrict, in order that the ſame may be filed, and that the clerk of the peace in each and every diſtrict ſhall file all recognizances that they may have taken, and ſhall be tranſmitted or delivered to them in manner aforeſaid, to be kept among the records of the diſtrict; and the clerks of the peace within their ſeveral diſtricts ſhall keep a regiſter of all the recognizances that may have been tranſmitted or delivered to them, and ſhall deliver or cauſe to be delivered to the juſtices of the peace in their quarter ſeſſions aſſembled, next enſuing the fifth day of April yearly, a liſt of the names of the perſons whoſe recognizances ſhall reſpectively have been filed, and any juſtice of the peace in any diſtrict wherein ſuch licence ſhall be granted upon complaint or information that ſuch licenced perſon hath done or committed any act, offence or miſdemeanor, whereby in the judgment of the ſaid juſtice, ſuch recognizance may be forfeited, or the condition thereof broken, may by ſummons under his hand and ſeal, require ſuch perſon ſo complained of or informed againſt, to appear at the next quarter ſeſſions of the peace for the ſaid diſtrict, then and there to anſwer the matter of ſuch complaint or information; and alſo may bind the perſon or perſons who ſhall make ſuch complaint or information or any other perſon or perſons concerned, in a recognizance to appear at ſuch quarter ſeſſions, and give evidence againſt the perſon ſo complained of, or informed againſt, and the juſtices of the peace in their quarter ſeſſions aſſembled, ſhall and may have power to direct the jury which ſhall attend at ſuch ſeſſions, for the trial of traverſes, or ſome other jury of twelve honeſt and ſubſtantial men to be then and there impannelled by the ſheriff without fee or reward, to enquire of the miſdemeanor charged in the ſaid complaint or information; and if ſuch jury ſhall find that the perſon ſo complained of or informed againſt, hath done any act, whereby the condition of his recognizance is broken; ſuch act being ſpecified in ſuch complaint or information, it ſhall and may be lawful for the court at ſuch quarter ſeſſions, to adjudge ſuch perſon guilty of the breach of ſuch recognizance; which verdict and adjudication ſhall be final to all intents and purpoſes; and thereupon the ſaid juſtices ſhall order the recognizance entered into by ſuch offender to be eſtreated into his Majeſty's court of King's Bench, to be levied to his Majeſty's uſe; and that the ſaid offender ſhall, from and after ſuch adjudication, be utterly diſabled to ſell any wine, brandy, rum, or ſpirituous liquors or ſtrong waters for the ſpace of three years; and any licence or licences granted or to be granted to ſuch perſon during ſuch time, ſhall be null and void.

Fees.

Recognizance to be tranſmitted to the clerks of the peace and filed,

And regiſtered.

A liſt of perſons under ſuch recognizances to be laid before the enſuing quarter ſeſſions.

Method of proceeding againſt perſons who may have broken the condition of this recognizance.

Recognizances to be eſtreated.

Diſability of an offender for 3 years.

VII.

Monies to be paid into the treasurer's hands within six months.

VII. *And be it further Enacted by the Authority aforesaid*, That the secretary of the Province or other person appointed to deliver licences to inn-keepers or keepers of public houses, shall cause all monies that shall or may be by himself or his agents received for such licences as may have been issued in each and every district, to be paid into the hands of the treasurer of this Province, for the time being, on or before the expiration of six months next succeeding the year when such licences were issued and distributed.

Names of licenced persons to be advertised.

VIII. *And be it further Enacted by the Authority aforesaid*, That the secretary of the Province shall and is hereby required yearly and every year, to cause the names of the several persons who shall have taken out a licence for keeping an inn or public house, to be published in the *Upper Canada Gazette*, on or before the twenty-first day of June, and that the clerk of the peace in each and every district do cause the names of all such persons as shall have entered into such recognizance, to be affixed in two of the most public places in the district for public inspection.

And of those under recognizances.

Form of a Warrant to a Constable to give Notice.

To the High Constable or other Peace Officer of this District.

Form of warrant.

HOME DISTRICT, } IN pursuance of the Act in such case made and pro-
Division. } vided, you are hereby required to give notice in the most public manner to all licenced inn-keepers or keepers of public houses, and also to all persons unlicenced, who do intend to offer themselves to be licenced at the next general meeting of the said justices, for that purpose, within this division; that they do personally appear before the said justices at the on the at hour of the forenoon of the same day, to take or renew their licences for the year ensuing; and also to give them notice that every person to be licenced, must personally enter into a recognizance of ten pounds before the clerk of the peace of the district, together with two sureties in five pounds each, that they will not use or suffer any unlawful games, and that they will keep good order and rule within their respective houses; and if he, she or they shall be hindered by sickness or other reasonable cause to be allowed by the said justices, that he, she or they must procure two sureties to be then and there bound in the like manner in ten pounds each. And unto such persons as have not been licenced for the year preceding, you are further to give notice, that no licence will be granted to any of them, unless every such person shall also at the same time and place, produce a testimonial, should the same be required by the justices, under the hands of the minister and church or town wardens, or otherwise of four reputable and substantial householders of the division; setting forth, that he is of good fame and sober life and conversation, and as they believe, a good subject of our Lord the King, having taken the oath of allegiance: Hereof fail not.

GIVEN under our hands this day of in the year of our Lord

A. B. } Justices of the peace for
C. D. } the said division.

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

Paſſed in the Fourth Seſſion of the Provincial Parliament of Upper Canada, met at Newark, on the Sixth day of July, in the Thirty-fifth year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the Tenth day of Auguſt following.

CHAP. I.

An ACT *to regulate the practice of Phyſic and Surgery.*

Preamble.

WHEREAS many inconveniencies have ariſen to his Majeſty's ſubjects in this Province, from unſkilful perſons practiſing phyſic and ſurgery therein: Therefore, be it Enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled, by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That no perſon who ſhall or may have come into this Province ſince the paſſing of the above mentioned Act, and before the paſſing of this Act, nor any perſon who ſhall or may hereafter come into this Province, ſhall be permitted to vend, ſell, or diſtribute medicines by retail, or preſcribe for ſick perſons, or practiſe phyſic, ſurgery or midwifry, within the Province, for profit, until ſuch perſon or perſons ſhall be duly examined and approved of, by a board of ſurgeons who ſhall be conſtituted and appointed (as herein after mentioned) with full powers to grant licences for the practice of phyſic, ſurgery and midwifry within the Province, and has received a licence under the hands and ſeals of the preſident of the ſaid board and ſuch members thereof as may be preſent at his or their examination.

No perſon (become reſident in this Province only ſince 31 Geo. 3) to practiſe phyſic, ſurgery, &c. without being duly licenced.

II. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for the governor, lieutenant governor, or perſon adminiſtering the government of this Province, by licence under his hand and ſeal, to order and appoint the ſurgeon of his Majeſty's hoſpital for the time being, together with

Board for examining and licencing candidates for the practiſe of phyſic, ſurgery, &c.

with the ſurgeons of his Majeſty's regiments doing duty within the Province, and all other ſurgeons and practitioners reſident within the ſame, authorized to practiſe phyſic and ſurgery by ſome lawfully conſtituted power or board in his Majeſty's dominions, or any two of them (of which the ſurgeon of his Majeſty's hoſpital ſhall be one) from time to time, and as often as occaſion may require, to hear and examine all perſons that may apply for a licence to practiſe phyſic, ſurgery and midwifry, or either, within the ſaid Province; who ſhall when they have examined and approved of any perſon ſo applying as aforeſaid, grant him ſuch licence under their hands and ſeals, for which licence he ſhall pay the ſum of two pounds lawful money and no more.

Fees.

Penalty for practiſing phyſic, ſurgery, &c. contrary to the proviſions of this Act.

III. *And be it further Enacted by the Authority aforeſaid*, That if any perſon having come into this Province ſince the paſſing of the ſaid Act in the thirty-firſt year of his Majeſty's reign, and before the paſſing of this Act; or ſhall come into it after the paſſing of the ſame, ſhall vend, ſell, or diſtribute medicines by retail, or preſcribe for ſick perſons, or practiſe phyſic or ſurgery as aforeſaid, until ſuch perſon ſhall be duly examined and licenſed by two or more members of the board, conſtituted and appointed as aforeſaid; ſuch perſon ſhall, for every offence, forfeit and pay the ſum of ten pounds, to be recovered in any of his Majeſty's courts of this Province, by action of debt, bill, plaint or information, wherein no eſſoin, privilege, protection or wager of law, ſhall be allowed, and only one imparlance; a moiety whereof ſhall be given to the informer, and the other moiety paid into the hands of the receiver general of this Province, to and for the uſe of his Majeſty, his heirs and ſucceſſors, and to and for the uſe of this Province and the ſupport of the civil government thereof, to be accounted for to his Majeſty, through the commiſſioners of his treaſury for the time being, in ſuch manner and form as it ſhall pleaſe his Majeſty to direct.

Manner of recovering the ſame, and to what uſes.

Exceptions as to the perſons prohibited from practiſing phyſic, ſurgery, &c. by this Act.

IV. *Provided always*, That nothing in this Act ſhall extend, or be conſtrued to extend, to any perſon who ſhall have taken a degree in any univerſity in his Majeſty's dominions, or to any perſon, who ſhall have been, or may hereafter be commiſſioned or warranted as a ſurgeon or ſurgeon's mate in his Majeſty's army or navy, or to any perſon vending, ſelling or diſtributing drugs or compound medecines, for which a patent hath been obtained, or to any other who ſhall or may have been ſettled and ſhall or may have practiſed phyſic, ſurgery or midwifry within this Province before the paſſing of the ſaid Act, in the thirty-firſt year of his Majeſty's reign as aforeſaid; provided that ſuch perſon laſt abovementioned, do not take an apprentice or perſon, under pretence of tuition, in any branch of phyſic or ſurgery, with an intent that ſuch perſon ſhall preſent himſelf for examination and approval as aforeſaid: hereby repealing all former Acts or ordinances made for the regulation of the practiſe of phyſic or ſurgery within this Province.

Reſtriction from taking apprentices, under certain circumſtances.

Repeal of former Acts or Ordinances in this behalf.

CHAP. II.

An ACT *to aſcertain the Eligibility of perſons to be returned to the Houſe of Aſſembly.*

Preamble.

WHEREAS many natural born ſubjects of his Majeſty, who have ſworn allegiance to other ſtates and powers, and been reſident in the dominions of the ſame, have been induced, or may hereafter be induced, by the excellency and lenity of his Majeſty's government, to become inhabitants of this Province; and whereas it is inexpedient that ſuch perſons ſhould be immediate-

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ly admitted to all the privileges of Britiſh ſubjects; Therefore be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, no perſon or perſons of what condition ſoever, coming from any part, place or country, not being under his Majeſty's government at the time of the paſſing of this Act, and not having been a bona fide ſubject of the King for and during the term of ſeven years next preceding the paſſing thereof, ſhall be eligible to be propoſed, choſen or elected as a repreſentative, or repreſentatives of any county, city, riding, borough or other place, of any deſcription now or hereafter ſending a repreſentative or repreſentatives to the Houſe of Aſſembly of this Province, until ſuch perſon or perſons ſhall have reſided for and during the ſpace of ſeven years, next enſuing the day of his coming into and ſettling as a ſubject in the ſaid Province.

Diſqualification from being eligible into the houſe of aſſembly.

II. *And be it further Enacted*, That no perſon or perſons of what condition ſoever, that ſhall or may have come into this Province before the paſſing of this Act, from any part, place or country, not being under his Majeſty's government, and not having been a bona fide ſubject of the King, for and during the term of ſeven years next preceding the paſſing hereof, ſhall be eligible to be propoſed, choſen or elected as a repreſentative or repreſentatives of any county, city, riding, borough or other place of any deſcription, now or hereafter ſending a repreſentative or repreſentatives to the houſe of aſſembly of this Province, until ſuch perſon or perſons, ſhall have reſided in the ſaid Province, for and during the ſpace of ſeven years next preceding the paſſing of this Act.

And from being propoſed as a candidate for election.

III. *And be it further Enacted*, That if any perſon or perſons of what condition ſoever, coming from any part, place or country, not being under his Majeſty's government at the time of the paſſing of this Act, and not having been a bona fide ſubject of the King, for and during the ſpace of ſeven years preceding the paſſing thereof, and who ſhall and may have come into this Province before the paſſing of this Act and ſettled as a ſubject therein, from any part, place or country, not being under his Majeſty's government at the time of the paſſing of this Act, and not having been a bona fide ſubject of the King for ſeven years preceding the day of his coming into this Province, with an intention to become a ſubject of the King, and his ſettling as ſuch within the ſame, ſhall propoſe or offer himſelf or themſelves as a candidate or candidates to become a repreſentative or repreſentatives of any county, city, riding, borough or other place, now or hereafter ſending a repreſentative or repreſentatives, until ſuch perſon or perſons ſhall have reſided for and during the term of ſeven years next enſuing the day of his coming into and ſettling as a ſubject in the ſaid Province; and ſhall be thereof convicted, by the oath of any one credible witneſs, ſhall forfeit and pay the ſum of one hundred pounds; to be recovered by any perſon who ſhall ſue for the ſame, in his Majeſty's court of his bench in this Province; by action of debt, bill, plaint or information,

Penalty for propoſing or offering to become a candidate under ſuch diſqualification.

wherein no eſſoin, privilege, protection or wager of law ſhall be allowed, and only one imparlance, one half of which ſaid ſum ſhall be given unto the perſon ſuing for the ſame; and the other half paid into the hands of his Majeſty's receiver general, to and for his Majeſty, his heirs and ſucceſſors, for the public uſes of the ſaid Province and ſupport of the government thereof; to be accounted for to his Majeſty, through the commiſſioners of his treaſury for the time being, in ſuch manner and form as his Majeſty ſhall direct.

Penalty for obtruding into the houſe of aſſembly under ſuch diſqualification.

IV. *And be it further Enacted*, That if any perſon or perſons of the deſcription aforeſaid, coming hereafter to ſettle in this Province, or being therein ſettled as aforeſaid, before the paſſing of this Act, ſhall be choſen or elected a repreſentative or repreſentatives (whether ſuch perſon or perſons ſhall have propoſed or offered him or themſelves as a candidate or candidates or not) of any county, city, riding, borough or other place of any deſcription, now or hereafter ſending a repreſentative or repreſentatives to the houſe of aſſembly of this Province as aforeſaid, and ſhall preſume upon ſuch choice or election to obtrude or preſent himſelf or themſelves into the ſaid houſe as a repreſentative or repreſentatives as aforeſaid; he or they, ſhall forfeit and pay the ſum of twenty pounds (over and beſides the foregoing penalty, if ſuch perſon or perſons ſhall have incurred the ſame) for every day that he ſhall ſo obtrude or preſent himſelf or themſelves, to be recovered by any perſon who ſhall ſue for the ſame, in his ſaid Majeſty's court of his bench; by action of debt, bill, plaint or information, wherein no eſſoin, privilege, protection or wager of law ſhall be allowed and only one imparlance; one half of which ſaid ſum, ſhall be given to the perſon ſuing for the ſame, and the other half paid into the hands of his Majeſty's receiver general; to and for his Majeſty, his heirs and ſucceſſors, for the public uſes of the ſaid Province, and the ſupport of the government thereof, to be accounted for to his Majeſty, through the commiſſioners of his treaſury for the time being; in ſuch manner and form as it ſhall pleaſe his Majeſty to direct.

CHAP. III.

An ACT *to ratify, approve and confirm the proviſional Agreement entered into by the Commiſſioners on behalf of this Province, with the Commiſſioners on behalf of the Province of Lower Canada.*

MOST GRACIOUS SOVEREIGN,

Preamble.

BEING at all times deſirous of conciliating the affection and friendſhip of our fellow ſubjects in Lower Canada, and particularly by an approval of articles of proviſional agreement that were made and entered into at *Montreal*, the eighteenth day of February, in the thirty-fifth year of your Majeſty's reign, by the commiſſioners nominated and appointed on behalf of the Province of *Upper Canada*, by an Act of the legiſlature thereof, paſſed in the thirty-third year of your Majeſty's reign, intituled, "An Act to authorize the lieutenant governor, to nominate and appoint certain commiſſioners for the purpoſes herein mentioned," and the commiſſioners nominated and appointed on behalf of the Province of *Lower Canada*, by an Act of the legiſlature thereof, paſſed in the thirty-fourth year of your Majeſty's reign, intituled, "An Act for appointing commiſſioners to treat with commiſſioners on behalf of the Province of *Upper Canada*, for the purpoſes therein mentioned," in form following:

Approval of the proviſional agreement between the commiſſioners of the provinces of Upper and Lower Canada.

ART. I.

ART. I. That the Province of *Lower Canada*, ſhall be and hereby is made accountable to the Province of *Upper Canada*, in full of all rights, claims and demands, which the ſaid Province of *Upper Canada* may have on the Province of *Lower Canada*; by reaſon of the duties levied upon wines, in the years one thouſand ſeven hundred and ninety-three, and one thouſand ſeven hundred and ninety-four, under an Act of the legiſlature of *Lower Canada*, paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to eſtabliſh a fund for paying the ſalaries of the officers of the legiſlative council and aſſembly, and for defraying the contingent expences thereof," in the ſum of three hundred and thirty-three pounds four ſhillings and two-pence, currency; which ſaid ſum ſhall be paid into the hands of ſuch perſon or perſons as may be appointed on the part of *Upper Canada*, to receive the ſame. Recital of the articles of the ſaid agreement.

ART. II. That the legiſlature of *Upper Canada*, will not impoſe any duties whatſoever on any goods, wares or merchandize, imported into *Lower Canada*, and paſſing into *Upper Canada*; but will allow and admit the legiſlature of *Lower Canada*, to impoſe and levy ſuch reaſonable duties on ſuch goods, wares and merchandize aforeſaid, as they may judge expedient for the purpoſe of raiſing a revenue within the Province of *Lower Canada*.

ART. III. That of ſuch duties as the legiſlature of *Lower Canada* hath already impoſed, or may hereafter impoſe on goods, wares or merchandize, coming into the Province of *Lower Canada*; the Province of *Upper Canada*, ſhall be intitled to receive annually, and to diſpoſe of one eighth of their net produce, for the uſe and benefit of the ſaid Province of *Upper Canada*; the other ſeven eighths remaining for the uſe of *Lower Canada*.

ART. IV. That there ſhall annually in the month of December, or as ſoon afterwards as poſſible, be furniſhed to the lieutenant governor, or perſon adminiſtering the government of the Province of *Upper Canada*, for the time being, duplicates of the account of all duties that now are, or hereafter may be impoſed by the legiſlature of *Lower Canada*.

ART. V. That this agreement is to continue and be in force until the laſt day of December, which will be in the year of our Lord one thouſand ſeven hundred and ninety-ſix; and no longer.

THEREFORE, May it pleaſe your moſt excellent Majeſty, That it may be enacted, and it is hereby enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That all and every the ſaid articles of proviſional agreement herein before particularly mentioned and inſerted, and every clauſe, matter and thing in the ſaid articles contained, ſhall be, and the ſaid articles are hereby ratified, approved and confirmed. Ratification thereof.

II. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the Provincial treaſurer of this Province for the time being, (when and as often, as the ſame may from time to time become due and payable) to aſk for, demand and receive, to and for the uſes of this Province, of and from all and every the perſon or perſons who now are, or at any time hereafter The provincial treaſurer, of this province, to demand and receive, to and for the uſes thereof, the monies ariſing by this Act.

hereafter may be nominated and appointed, on the part and in the behalf of the Province of *Lower Canada*, for the payment thereof; all and every ſum and ſums of money which now is, or are become due and payable, or hereafter may become due and payable, from the ſaid Province of *Lower Canada* to this Province, purſuant and by virtue of this Act, and of the articles of proviſional agreement herein before ratified, approved and confirmed; which ſaid Provincial treaſurer for the time being, is hereby authorized and empowered by himſelf or by any perſon or perſons whom he may thereunto duly authorize, to grant ſufficient receipts and diſcharges for the ſame, which receipts and diſcharges ſhall be taken, and held to be binding and obligatory on this Province to all intents and purpoſes whatſoever; and be a full and ſufficient acquittal of, and for all, and every ſum and ſums of money, which in ſuch receipts and diſcharges ſhall reſpectively, be contained.

CHAP. IV.

An ACT *to explain and amend an Act paſſed in the thirty-fourth year of His Majeſty's Reign, intituled, "An Act to eſtabliſh a Superior Court of Civil and Criminal Juriſdiction, and to regulate the Court of Appeal."*

Preamble.

WHEREAS doubts have ariſen reſpecting the juriſdiction of his Majeſty's court of his bench in this Province, as far as the ſame may concern the condemnation of contraband goods; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtne of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, all actions of debt, bill, plaint or information, that may be brought upon any ſeizure of contraband goods, by any Ordinance or Act in force, or to be in force in this Province, for the prevention of ſmuggling or any clandeſtine or unlawful commerce or intercourſe heretofore, now or hereafter carried on or to be carried on, by and between his Majeſty's ſubjects or people of any other ſtate or country when and where the ſame may be prohibited, ſhall be heard and determined in his Majeſty's court of his bench; and that it ſhall and may be lawful upon any action of debt, bill, plaint or information, brought or to be brought upon any ſeizure before this Act made, or to be hereafter made of any contraband or prohibited goods, now or hereafter made or to be made contraband; for the juſtices of his Majeſty's bench for the time being, to proceed to the hearing and determining thereof, in as full and ample a manner, as is now done and practiſed in his Majeſty's court of exchequer in *England*, and to condemn the ſame, if it ſhall be lawful ſo to do, and to award ſuch damages and coſts, as may now or hereafter be given by any ordinance or law now in being or hereafter to be for the regulation of the commerce of this country, any ordinance or law to the contrary hereof in any wiſe notwithſtanding.

Juriſdiction granted to the court of King's bench in actions for goods ſeized as contraband, and proceſs to be had therein, as in ſimilar caſes in his Majeſty's court of exchequer in England.

Michaelmas term to commence hence-

II. *And be it further Enacted by the Authority aforeſaid*, That in all times to come, the term of Michaelmas ſhall commence and be holden on the firſt Mon-

day

day in the month of November, yearly and every year, any Act or law to the contrary notwithſtanding. forth in November.

III. *And be it further Enacted by the Authority aforeſaid*, That the court of his Majeſty's bench ſhall continue to be had and holden in the town of *Newark* in the Home diſtrict, for and during the ſpace of two years next enſuing the paſſing of this Act, any Act or law to the contrary notwithſtanding. The court of King's bench to be holden for two years at Newark.

CHAP. V.

An ACT *for the Public Regiſtering of Deeds, Conveyances, Wills and other Incumbrances which ſhall be made, or may affect any Lands, Tenements or Hereditaments within this Province.*

WHEREAS the lands now holden within this Province, under the authority of the Crown will be ſhortly confirmed by grant from his Majeſty under the ſeal of the ſaid Province; and whereas it ſeems to be a deſirable meaſure to eſtabliſh a regiſter in each county and riding within the ſaid Province, that when the ſaid lands ſhall be ſo confirmed, if any, or any part of the ſame ſhall be transfered or alienated by any deed of ſale, conveyance, enfeofment or exchange, or by gift, deviſe or mortgage, a memorial of ſuch transfer or alienation ſhall be made for the better ſecuring and more perfect knowledge of the ſame; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act there ſhall be eſtabliſhed in each and every county and riding of this Province, wherein it may be deemed for the preſent neceſſary, and as often after as occaſion may require within others, an office for the enregiſtering of memorials of all deeds and inſtruments by which, lands within the ſame ſhall or may be transferred, or diſpoſed of, by bargain and ſale, enfeofment, gift, deviſe, mortgage or exchange, and that it ſhall and may be lawful for the Governor, Lieutenant Governor, or Perſon adminiſtering the Government of this Province for the time being, to name the place where ſuch regiſter office ſhall be kept, and to nominate and appoint a perſon of ſufficient integrity and ability to each and every office that ſhall or may for the preſent be eſtabliſhed, and as often as occaſion may require within the ſaid province, under the conditions hereinafter mentioned, who ſhall faithfully cauſe to be enregiſtered a memorial of all deeds and other inſtruments by which lands may be transferred or alienated, that ſhall or may be preſented to him in manner hereinafter mentioned, and becauſe the population of the county may not for the preſent admit of a ſeparate regiſter to be appointed to each and every office that may be for the preſent eſtabliſhed; it ſhall and may be lawful for the Governor, Lieutenant Governor, or Perſon adminiſtering the government of this Province for the time being, to nominate and appoint one ſufficient perſon as aforeſaid to hold and perform the duty or duties of one or more office or offices whereſoever they may be eſtabliſhed, and to order and appoint the place or places where ſuch perſon ſhall be conſtantly or occaſionally reſident. Preamble. Regiſter offices to be eſtabliſhed. Appointment of regiſters. A regiſter may perform the duties of more than one office.

II. *And be it further Enacted by the Authority aforeſaid*, That from and after the confirmation of all or any lands to any perſon or perſons by grant from the Crown A memorial of deeds, con-

veyances and wills affecting any lands, held by grant from the crown under the seal of the province, may be registered.

Crown under the seal of the Province, a memorial of all deeds and conveyances which shall be made and executed, and of all wills and devises in writing made, or to be made and published when the devisor or testator shall die after making and publishing of the same, of or concerning and whereby any lands, tenements or hereditaments in any county or riding of this Province may be any wise affected in law or equity, may at the election of the party or parties concerned be registered in such manner as is herein after directed; and that every deed and conveyance that shall at any time after any memorial is so registered be made and executed of the lands, tenements or hereditaments, or any part thereof, comprised or contained in any such memorial, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial be registered as by this Act is directed, before the registering of the memorial of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim, and that every devise by will of the lands, tenements or hereditaments or any part thereof mentioned or contained in any memorial registered as aforesaid, that shall be made and published after the registering of such memorial shall be adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such will be registered in such manner as herein after directed.

Subsequent deeds and conveyances of lands, tenements, &c. comprized in such memorial so registered, to be held fraudulent and void.

Exception.

III. *And be it Enacted by the Authority aforesaid*, That when and as often as the said office shall become vacant by the death, forfeiture or surrender of any such register or registers, the justices of the peace for the said county or counties, riding or ridings, if more than one be held by one person, or the district wherein such county or counties, riding or ridings may be assembled at the general quarter sessions of the peace, next after such vacancy shall happen, or the major part of them, shall in open court draw up a memorial of such vacancy, and transmit the same without delay to the Governor, Lieutenant Governor, or person administering the government of this Province for the time being, praying that a person of sufficient integrity and ability may be appointed to the said office or offices; and the said Governor, Lieutenant Governor, or person administering the government of this Province for the time being, shall within one month after the said memorial shall be received, appoint a person of sufficient integrity and ability to the said office or offices.

Notice to be given when the office of register becomes vacant, to the governor, &c.

Term limited for filling up such vacancy.

IV. *And be it further Enacted by the Authority aforesaid*, That all and every memorial or memorials so to be entered and registered, shall be put into writing, and brought to the said office, and in case of deeds and conveyances, shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such deed or conveyance, which witness shall upon his oath before the said register or his deputy, prove the signing and sealing of such memorial, and the execution of the deed or conveyance mentioned in such memorial; and in case of wills, the memorial shall be under the hand and seal of some or one of the devisees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof shall upon his oath before the said register or his deputy, prove the signing and sealing of such memorial, which respective oaths the said register or his deputy are hereby empowered to administer, and shall endorse a certificate thereof on every such memorial, and sign the same.

The memorials to be put in writing and brought to the office.

Oaths to be administered & witnesses requisite in registering every memorial.

V. *And*

Particulars to be inſerted in every memorial.

V. *And be it further Enacted by the Authority aforeſaid*, That every memorial of any deed, conveyance, or will, ſhall contain the day of the month and the year when ſuch deed, conveyance or will bears date, and the names and additions of all the parties to ſuch deed, conveyance or will, or the deviſor or teſtatrix of ſuch will, and of all the witneſſes to ſuch deed, will or conveyance, and the places of their abode, and ſhall expreſs or mention the lands, tenements or hereditaments contained in ſuch deed, will or conveyance, and the names of all the townſhips or pariſhes within the ſaid county or counties, riding or ridings, where any ſuch lands, tenements or hereditaments are lying or being, that are given, granted, conveyed, deviſed, or any way affected or charged by any ſuch deed, will or conveyance, in ſuch manner as the ſame are expreſſed or mentioned in ſuch deed, will or conveyance, or to the ſame effect; and that every ſuch deed, conveyance and will or probate of the ſame, of which ſuch memorial is to be regiſtered as aforeſaid, ſhall be produced to the ſaid regiſter, or his deputy, at the time of entering ſuch memorial, who ſhall endorſe a certificate on every ſuch deed, conveyance and will or probate thereof, and therein mention the certain day, hour and time on which ſuch memorial is entered and regiſtered, expreſſing alſo in what book, page and number the ſame is entered, and that the ſaid regiſter, or his deputy, ſhall ſign the ſaid certificate when ſo endorſed, which certificates ſhall be taken and allowed as evidence of ſuch reſpective regiſtries in all courts of record whatſoever, and that every page of ſuch regiſter book, and every memorial that ſhall be entered therein, ſhall be numbered, and the day of the month and the year and hour or time of the day when every memorial is regiſtered, ſhall be entered in the margins of the ſaid regiſter books and of the ſaid memorial, and that every ſuch regiſter ſhall keep an alphabetical calendar of all townſhips and pariſhes within the ſaid county or counties, riding or ridings, with reference to the number of every memorial that concerns the lands, tenements or hereditaments in every ſuch townſhip or pariſh reſpectively, and of the names of the parties mentioned in ſuch memorial, and the ſaid regiſter ſhall enter or regiſter the ſaid memorials in the ſame order that they ſhall reſpectively come to his hand.

The deed, conveyance or will ſhall be produced to the regiſter or his deputy who ſhall endorſe a circumſtial certificate thereon.

Such certificate ſhall be evidence of regiſtry.

Books of entries to be kept by the regiſters.

Regiſters to be ſworn.

VI. *And be it further Enacted by the Authority aforeſaid*, That every ſuch regiſter before he enter upon the execution of the ſaid office, ſhall be ſworn before the juſtices of the peace for the county or counties, riding or ridings, or diſtrict to which ſuch regiſter ſhall be appointed, or diſtrict wherein ſuch regiſter ſhall reſide, or any three or more of them (who are hereby empowered and required to adminiſter ſuch oath) in theſe words:—

Oath.

"*You ſhall truly and faithfully perform and execute the office and duty that is*
"*directed and required by an Act of the Legiſlature of this Province, in*
"*regiſtering memorials of deeds, conveyances and wills, within the county*
"*or counties of* *ſo long as you ſhall continue in the ſaid office,*
"*and that you have not given, or promiſed directly, or indirectly, nor au-*
"*thorized any perſon to give any money, gratuity or reward whatſoever, for*
"*procuring or obtaining the ſaid office for you*—So help you God."

The ſame oath to be taken by the deputy regiſters.

And that when and as often as the ſaid regſter ſhall appoint any deputy to execute the ſaid office, ſuch deputy ſhall before he enter upon the execution thereof, take the ſaid oath appointed to be taken by the regiſter, before two or more juſtices of the peace for the ſaid county or counties, riding or ridings, or of the diſtrict wherein they may be (who are hereby empowered and required to adminiſter

Recognizance to be entered into by each regiſter.

adminiſter ſuch oath) and that every regiſter at the time of his being ſworn into the ſaid office, ſhall alſo enter into a recognizance with two or more ſufficient ſureties, to be approved of by five or more juſtices of the peace of the ſaid county or counties, riding or ridings, or of the ſaid diſtrict, by writing under their hands and ſeals to be regiſtered at the next general quarter ſeſſions of the peace for the ſaid county or counties, riding or ridings, or diſtrict, of the penalty of one thouſand pounds unto his Majeſty, his heirs and ſucceſſors, to be taken by the ſame juſtices of the peace that approved of his ſecurity, conditioned for his true and faithful performance of his duty in the execution of his ſaid office in all things directed and required by this Act; the ſame to be tranſmitted by the ſame juſtices of the peace within ſix months after the date thereof, into the court of his Majeſty's bench of the ſaid Province, there to remain amongſt the records of the ſaid court.

The ſame to be tranſmitted into the court of King's bench.

Limitation of actions upon ſuch recognizances.

VII. *Provided nevertheleſs, and be it further Enacted*, That when any regiſter ſhall die, or ſurrender his office, and that within the ſpace of one year from and after ſuch death or ſurrender, no miſbehaviour appear to have been committed by ſuch regiſter in the execution of his ſaid office, then and in ſuch caſe, at the end of the ſaid one year after his death or ſurrender, the recognizance ſo entered into by him, ſhall become void and of no effect to all intents and purpoſes whatever.

Office hours for the diſpatch of buſineſs in every regiſter office.

VIII. *And be it further Enacted by the Authority aforeſaid*, That every ſuch regiſter or his ſufficient deputy ſhall give due attendance at his office every day in the year (except Sundays and the firſt week in June and the laſt week in December, as alſo the week of the Holy Paſſion yearly and every year) between the hours of nine in the forenoon and one in the afternoon, for the diſpatch of all buſineſs belonging to the ſaid office, and that every ſuch regiſter or his deputy, as often as required, ſhall make ſearches concerning all memorials that are regiſtered as aforeſaid, and give certificates concerning the ſame under his hand, if required by any perſon.

Searches.

Fees.

IX. *And be it further Enacted by the Authority aforeſaid*, That every ſuch regiſter ſhall be allowed for the entry of every ſuch memorial as is by this Act directed, the ſum of two ſhillings and ſix-pence and no more, in caſe the ſame doth not exceed one hundred words, but if ſuch memorial ſhall exceed one hundred words, then after the rate and proportion of one ſhilling for every hundred words contained in ſuch memorial, over and above the firſt hundred words, and the like fees for the like number of words contained in every ſuch certificate or copy given out of the ſaid office, and no more, and for every ſearch in the ſaid office one ſhilling and ſix-pence, and no more.

Penalties for neglect of duty or fraudulent practices of regiſters or their deputies.

X. *And be it further Enacted by the Authority aforeſaid*, That if any ſuch regiſter or his deputy ſhall neglect to perform his or their duty in the execution of the ſaid office, according to the rules and directions in this Act mentioned, or commit or ſuffer to be committed any undue or fraudulent practice in the execution of the ſaid office and be thereof lawfully convicted, that then ſuch regiſter ſhall forfeit his ſaid office and pay treble damages with full coſts of ſuit to every perſon or perſons that ſhall be injured thereby; to be revovered by action of debt, bill, plaint, or information in any of his Majeſty's courts of record, wherein no eſſoin, protection, privilege, or wager of law ſhall be allowed, nor any more than one imparlance.

XI. *Provided*

Provision relative to leases.

XI. *Provided also, and be it further Enacted by the Authority aforesaid,* That this Act shall not extend to any leases at a rack rent, or to any lease, not exceeding twenty one years, where the actual possession and occupation goeth along with the lease, any thing in this Act contained to the contrary thereof in any wise notwithstanding.

Several writings, relating to one fact, may be comprized in one memorial and registry.

XII. *Provided always, and be it further Enacted by the Authority aforesaid,* That where there are more writings than one for making and perfecting any conveyance or security which do name, mention or any wise affect or concern the same lands, tenements and hereditaments, it shall be a sufficient memorial and register thereof, if all the said lands, tenements and hereditaments, and the parishes and townships where the same lie be only once named or mentioned in the memorial register and certificate of any one of the deeds or writings made for the perfecting of such conveyance or security; and that the dates of the rest of the said deeds or writings, relating to the said conveyance or security, with the names and additions of the parties and witnesses and the places of their abodes be only set down in the memorials, registers and certificates of the same, with a reference to the deed or writing whereof the memorial is so registered that contains or expresses the parcels mentioned in all the deeds, and directions how to find the registering the same.

A memorial may be registered of deeds, conveyances and wills, executed out of the county wherein the lands, &c. lie, on due proof.

XIII. *And be it further Enacted by the Authority aforesaid,* That a memorial of any such deeds, conveyances and wills, as shall be made and executed or published in any other place within the said province, not being within the county or counties, riding or ridings, wherein such lands, tenements or hereditaments lie, shall be entered or registered by the aforesaid register or his deputy, in case an affidavit sworn before one of the judges of the court of King's Bench, or commissioner duly authorized to take affidavits, be brought to the said register or his deputy, wherein one of the witnesses to the execution of such deeds, wills and conveyances shall swear he or she saw the same executed, the same shall be a sufficient authority to the said register or his deputy to give the party that brings such deed, conveyance or will and affidavit, a certificate of the registering the same, which certificate signed by the said register or his deputy shall be taken and allowed as evidence of the registry of the same in all courts of record in this Province, any thing in this act to the contrary thereof contained in any wise notwithstanding.

Pains and penalties of forgery and perjury.

XIV. *And be it further Enacted by the Authority aforesaid,* That if any person or persons shall at any time forge or counterfeit, any such memorial or certificate as are herein before mentioned and directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties, as in and by an act of the parliament of *Great Britain*, made in the fifth year of the reign of Queen Elizabeth, intituled, "An Act against forgers of false deeds and writings," are imposed upon persons for forging or publishing deeds, charters or writings, sealed court rolls or wills, whereby the freehold or inheritance of any person or persons of, in or to, any lands, tenements or hereditaments, shall or may be molested, troubled or charged; and that if any person or persons shall at any time forswear himself before the said register or his deputy, or before any judge or commissioner duly authorized in any of the cases aforesaid, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties as if the same had been made in any of the courts of record.

Provision for the registry of memorials of wills.

XV. *Provided always, and it is hereby Enacted,* That all memorials of wills that shall be registered in manner as aforesaid, within the space of six months after the death of every respective devisor or tetastrix dying within this Province, shall be as valid and effectual against subsequent purchasers as if the same had been registered immediately after the death of such respective devisor or testatrix; any thing herein contained to the contrary in any wise notwithstanding.

Provision in favor of devisees.

Provided always, that in case the devisee, or person or persons interested in the lands, tenements or hereditaments devised, by any such will as aforesaid, by reason of the contesting such will or other inevitable difficulty, without, his, her, or their willful neglect or default, shall be disabled to exhibit a memorial for the registry thereof within the respective times herein before limited, then and in such case, the registry of the memorial within the space of six months next after his, her or their attainment of such will or a probate thereof or removal of

the impediment whereby, he, she or they are disabled or hindred to exhibit such memorial, shall be a sufficient registry within the meaning of this act; herein any thing contained to the contrary thereof in any wise notwithstanding.

No members of the assembly to hold directly or indirectly the office of register.

XVI. *And be it further Enacted by the Authority aforesaid,* That no member of the House of Assembly hereafter to be chosen, during the time that he is such member, shall be capable of being appointed register, or of executing by himself, or any other person the said office, or have, take, or receive any fee or other profit whatsoever, for or in respect thereof, nor shall any register, or his deputy, for the time being be capable of being hereafter chosen a member to serve in the Assembly of this Province.

This Act to be held and taken as a public Act.

XVII. *And be it further Enacted by the Authority aforesaid,* That this Act shall be taken and allowed in all courts within this Province as a public act; and all judges and justices are hereby required as such, to take notice thereof without special pleading the same.

SCHEDULE

Of a Bargain and Sale to be Enrolled.

Forms.

Memorial of a bargain and sale.

AN Indenture dated made between I. A. of of the one part, and D. P. of of the other part, purporting a deed of Bargain and Sale to be enrolled, of and concerning the same premises mentioned in a lease for a year, bearing date next before the day of the date of the said indenture of Bargain and Sale, (or as the date is) and made between the said I. A. of the one part, and the said D. P. of the other part; a memorial whereof is registered at the same time herewith, (or as the time is) which indenture, or Bargain and Sale is witnessed by T. A. of and J. W. of and is hereby required to be registered by me the said I. A. the grantor in the said deed of Bargain and Sale mentioned, as witness my hand and seal this day of

(Signed, &c.) I. B.

Of a Mortgage for Years.

Of a mortgage.

AN Indenture of Mortgage dated the made between W. D. of of the one part, and J. W. of of the other part, whereby the said W. D. for and in consideration of pounds demised unto the said J. W. all that situate and being in and called or known by the name of now in the tenure to hold unto the said J. W. for the term of years: subject nevertheless to a proviso that the same shall be void, on the payment of the sum of pounds and lawful interest for the same, on the day of in the year of our Lord one thousand seven hundred and which said indenture of Mortgage, is witnessed by and is hereby required to be registered pursuant to the said act of the legislature of this Province by me the said W. D. the grantor in the said deed, as witness, &c.

(Signed, &c.) W. D.

Of an Indorsement.

Of an Indorsement.

AN Indorsement dated the day of made from J. E. of and W. N. of on the back of a mortgaged deed dated the and made between the said J. E. of the one part, and the said W. N. of the other part, of and concerning all that situate and being in now in the tenure or occupation of J. D. which said indorsement is witnessed by J. E. of and R. W. of and is hereby required to be registered by me the said J. E. the grantor, as witness, &c. (Signed, &c.) J. E.

Of a Will.

Of a Will.

A WILL dated the made by J. F. of of and concerning all that messuage and tenement in late in the tenure and occupation of G. L. (or if the words of the will be general then say) of and concerning all the lands, tenements or hereditaments, which the said J. F. died possessed of in the county of which said Will is witnessed by J. G. of and F. W. of and E. T. of this memorial is therefore desired to be registered pursuant to the abovelaid Act by me E. L. one of the devisees in the said Will mentioned, as witness, &c. (Signed, &c.) E. L.

A Certificate of Mortgage Money being Paid.

Of a Redemption of a Mortgage.

To the Register of the County of

J. W of do hereby certify that W. D. of hath paid and satisfied all such

ſum and ſums of money as were due and owing upon a mortgage made by the ſaid W. D. to me, bearing date the day of and regiſtered at of the clock in the forenoon of the day of following, in full diſcharge of the ſame; and I do hereby requ're an entry of ſuch payment and ſatisfaction to be made purſuant to the act of the legiſlature in that caſe made and provided, as witneſs my hand this day of (Signed) J. W.
Atteſted by W. M. of J. H. of .

Of a Certificate of ſuch Redemption.

MEMORANDUM that upon the certificate of the within named J. W. dated the day of proved by the oaths of W. M. of and J. H. of that all monies due on the within mentioned mortgage is fully paid and ſatisfied in diſcharge of the ſame: this entry in diſcharge thereof is made purſuant to the ſaid Act of the legiſlature this day of by THOMAS JONES, Regiſter.

THE STATUTES OF HIS MAJESTY's PROVINCE OF Upper Canada.

Paſſed in the Fifth Seſſion of the Provincial Parliament of Upper Canada, met at Newark, on the Sixteenth day of May, in the Thirty-ſixth year of the Reign of our Sovereign Lord GEORGE the Third, and prorogued on the Third day of June following,

CHAP. I.

An ACT *for the better Regulation of certain Coins current in this Province.*

Preamble.

FOR the better regulation of certain coins current in this Province; Be it enacted by the King's Moſt Excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the gold and ſilver coins herein after mentioned, ſhall paſs current and be deemed a legal tender in payment of all debts and demands whatſoever in this Province, at the weights and rates following; that is to ſay, of gold coins, the Britiſh Guinea, weighing five penny weights and ſix grains Troy, at one pound three ſhillings and four pence, the Joahnnes of Portugal, weighing eighteen penny weights Troy, at four pounds; the Moidore of Portugal weighing ſix penny weights and eighteen grains Troy, at one pound ten ſhillings; the milled Doubloon, or four piſtole

The gold and ſilver coins herein ſpecified ſhall be deemed a legal tender.

Specification, value, and reſpective weights of ſuch gold coins.

tole piece of Spain, weighing ſeventeen penny weights Troy, at three pounds and fourteen ſhillings; the French Louis d'or, coined before the year one thouſand ſeven hundred and ninety-three, weighing five penny weights and four grains Troy, at one pound two ſhillings and ſix pence: the French Piſtole piece coined before the ſame period, weighing four penny weights and four grains, at eighteen ſhillings; the American Eagle piece, weighing eleven penny weights and ſix grains Troy, at two pounds and ten ſhillings; and of Silver coins, the Britiſh crown, at five ſhillings and ſix pence; the Britiſh ſhilling, at one ſhilling and one penny; the Spaniſh milled dollar, at five ſhillings, equal to four ſhillings and ſix pence; ſterling money of Great Britain; the Spaniſh piſtareen at one ſhilling; the French crown, coined before the year one thouſand ſeven hundred and ninety three, at five ſhillings and ſix pence; the French piece of four livres ten ſols Tournois, at four ſhillings and two pence; the French piece of thirty ſix ſols Tournois, at one ſhilling and eight-pence; the French piece of twenty-four ſols Tournois, at one ſhilling and one penny; the American dollar, at five ſhillings, and all the higher and lower denominations of the ſaid gold and ſilver coins ſhall alſo paſs current, and be deemed a legal tender in payment of all debts and demands whatſoever in this Province, in the ſame proportions reſpectively.

Of ſuch ſilver coins.

II. *And be it further Enacted by the Authority aforeſaid*, That for every grain which any piece of the aforeſaid gold coins ſhall reſpectively weigh more than the ſtandard aforeſaid, there ſhall be allowed and added in all payments made in pieces of gold by detail, two pence and one farthing currency; and for every grain which any piece of the ſame ſhall reſpectively weigh leſs than the ſtandard aforeſaid, there ſhall be deducted in all payments, two pence and one farthing currency.

Allowance for exceſs or deficiency in the ſtandard weight of pieces of gold paid by detail.

III. *And be it further Enacted by the Authority aforeſaid*, That any perſon or perſons, who ſhall colour, gild or caſe over with gold or ſilver, or with any waſh or materials producing the colour of gold or ſilver, any coin of coarſe gold, or of coarſe ſilver, or of baſe metal reſembling any ſuch foreign coin ſo declared current, and any perſon or perſons, who ſhall gild over any piece of ſilver reſembling any ſuch foreign coin ſo declared current, and any perſon or perſons who ſhall bring, or cauſe to be brought into this Province, any forged or counterfeit money like to the foreign gold or ſilver coin ſo declared current, knowing the ſame to be forged or counterfeit, or any coin of coarſe gold, or of coarſe ſilver, or of baſe metal, coloured, 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 foreign coin, or any piece of gilded ſilver, reſembling any ſuch foreign coin, knowing the ſame, every ſuch perſon ſhall for every ſuch offence, be deemed guilty of felony, and upon conviction thereof, in his Majeſty's court of his Bench, ſhall ſuffer death, as in caſes of felony.

Counterfeiting or falſifying ſuch current coins ſhall be deemed felony,

or knowingly importing ſuch counterfeit and falſified coins.

IV. *And be it further Enacted by the Authority aforeſaid*, That if any perſon whoſoever, ſhall after the paſſing of this Act, utter or tender in payment to any perſon or perſons, any falſe or counterfeit money, counterfeited to any of the gold or ſilver coins of Great Britain, Portugal, the United States of America, Spain or France, as herein before ſpecified, or to any of the higher or lower denominations thereof, knowing the ſame to be falſe or counterfeit, and ſhall be thereof convicted, ſuch perſon ſo offending, ſhall ſuffer one year's impriſonment, and ſhall alſo be ſet in and upon the pillory for the ſpace of one hour, in ſome public and conſpicuous place; and if the ſame perſon ſhall afterwards offend a ſecond time, in uttering or tendering in payment any ſuch falſe or counterfeit money as aforeſaid, knowing the ſame to be ſo, and ſhall be convicted of ſuch ſecond offence, he or ſhe ſhall be, and is hereby adjudged to be guilty of felony without benefit of clergy.

Puniſhment for uttering or tendering falſe and counterfeit money knowingly.

A ſecond offence to be deemed felony.

V. *And be it further Enacted by the Authority aforeſaid*, That any perſon or perſons who ſhall after the paſſing of this Act, import or bring, or cauſe to be imported or brought into this Province, any falſe or counterfeit braſs or copper money, in order to ſell or paſs away the ſame, knowing the ſame to be falſe and counterfeit, every ſuch perſon ſhall, for every ſuch offence, beſides forfeiting the ſame, ſuffer impriſonment at the diſcretion of the juſtice or juſtices, judge or judges of the court of his Majeſty's Bench, or Oyer and Terminer, before whom ſuch perſon or perſons ſhall be tried and convicted;

Puniſhment for importing falſe or counterfeit braſs or copper money to ſell or paſs away.

victed; Provided always, That such imprisonment shall not exceed twelve calendar months.

Such brass or copper money to be seized and defaced, and one moiety thereof to belong to his Majesty, and the other to the informer.

VI. *And be it further Enacted by the Authority aforesaid,* That all such false or counterfeit brass or copper money, may be seized by any person having a warrant from a justice of the peace for that purpose, and shall be broken or defaced in open court, after being found to be false or counterfeit, or in presence of a justice of the peace, and one moiety shall then belong to his Majesty, his heirs and successors, to be applied to the public uses of this Province, and the support of the civil Government thereof, the due application of which shall be accounted for to his Majesty, his heirs and successors, through the commissioners of his Majesty's Treasury for the time being, in such manner and form as his Majesty shall direct; and the other moiety thereof shall belong to the person who shall have seized and prosecuted for the same.

Tender in copper money limited to 1s. at one payment.

VII. *And be it further Enacted by the Authority aforesaid,* That no person shall be obliged to receive at any one payment more than the sum of one shilling currency of this Province, in copper money.

After the 1st of June, 1797, the gold coins, in payments exceeding 50l. shall be weighed in bulk if either of the parties require it.

In what manner.

VIII. And whereas it would be a great facility in making payments, if gold coins were weighed in bulk, and not in single pieces as heretofore has been customary; Be it therefore enacted by the authority aforesaid, That in every payment exceeding the sum of fifty pounds currency, which shall be made in gold coin after the first day of June, which will be in the year of our Lord, one thousand seven hundred and ninety-seven, where one of the parties making or receiving the same shall require it, such gold shall be weighed in bulk and not in single pieces; that is to say, the gold of Great Britain, Portugal and America together; and that of Spain and France together, from the weight of which a deduction shall be made of two thirds of a grain Troy, for each piece of gold coin so weighed, as a compensation for the loss that may accrue by paying away the same in detail; and in all payments so made, the gold coin of Great Britain, Portugal and America, shall be computed at the rate of eighty-nine shillings currency for each ounce Troy, and that of Spain and France, at the rate of eighty seven shillings currency for each ounce Troy therein contained, after such deduction made, and so in proportion for a greater or lesser quantity.

At what rate computed.

Suspected pieces of money may be broken, cut or defaced.

IX. *And be it further Enacted by the Authority aforesaid,* That any person or persons to whom any gold, silver, or copper money shall be tendered in payment, any piece whereof shall by the stamp, impression, colour or weight thereof afford reason to suspect that the same, or any piece thereof, is false and counterfeit, such person or persons to whom the same is presented, may cut, break or deface every such piece, and if any piece so cut, broken or defaced, shall be found to be false and counterfeit, the person tendering such false and counterfeit money, shall bear the loss thereof; but if the same shall be found to be good and lawful money, the person that cut, broke or defaced the same, shall receive the same at the rate it was coined for.

By whom the loss arising thereby shall be borne.

Decision of questions arising thereupon.

X. And if any question shall arise whether any piece so cut, broken, or defaced, be false or counterfeit, it shall be determined by a justice of the peace, who, if he shall have any doubts touching the same, may summon three indifferent persons to give their opinion thereon, whose opinions, or the majority thereof, shall be final.

Counterfeit gold and silver coin, produced in a court of justice, how disposed of.

XI. *And be it further Enacted by the Authority aforesaid,* That if any false or counterfeit gold or silver coin shall be produced in any court of justice in this Province, the judges shall cause the same to be cut in pieces in open court, or in the presence of a justice of the peace, and there be delivered to or for the person or persons to whom it belongs.

Repeal of ordinance, 17th Geo. 3, for regulating the currency.

XII. *And be it further Enacted by the Authority aforesaid,* That from and after the passing of this Act, the Act or Ordinance made in the seventeenth year of his Majesty's reign, intituled, "An Ordinance for regulating the currency of the Province," be, and the same is hereby repealed.

CHAP. II.

An ACT *to amend certain parts of an Act, intituled "An Act for the regulation of Juries," and a certain other Act intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal."*

Preamble.

BE it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of

Upper Canada, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, and before the firſt day of Trinity term now next enſuing, and before the firſt day of the reſpective terms next preceding the time when the iſſuing of the writs of aſſize and niſi prius are directed to be iſſued, according to the form and effect of a certain Act paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "An Act to eſtabliſh a ſuperior court of civil and criminal juriſdiction, and to regulate the court of appeal," and in every year thereafter enſuing, the Sheriffs of the Eaſtern, Midland and Weſtern Diſtricts, and each reſpectively, ſhall cauſe a pannel of the names of the jurors, not leſs than thirty-ſix, nor more than forty-eight perſons, according to the rules and regulations contained in the ſaid Act, intituled, An Act for the regulation of juries," to be tranſmitted into his Majeſty's court of his bench, that ſhall be liable to be ſummoned for the trial of all cauſes at the then next enſuing aſſizes, without a venire facias for that purpoſe.

A panel of jurors for the trial of iſſues at the aſſizes, ſhall be tranſmitted, at ſtated periods into the court of King's Bench, by the Sheriffs of the Eaſtern, Midland and Weſtern Diſtricts reſpectively, without any venire facias for that purpoſe.

II. *And be it further Enacted*, That the Sheriff of the Home Diſtrict on or before the firſt day of every term, ſhall cauſe a pannel of the names of jurors, not leſs than thirty-ſix nor more than forty eight, according to the rules and regulations of the ſaid Act, for the regulation of juries, to be tranſmitted into his ſaid Majeſty's court of his bench, of perſons that ſhall be liable to be ſummoned for the trial of all cauſes at the ſittings during and enſuing each term, without a venire facias for that purpoſe.

The Sheriff of the Home diſtrict, to return in like manner, on firſt day of every term.

CHAP. III.

An ACT *to amend an Act intituled*, "*An Act for regulating the manner of licencing public houſes, and for the more eaſy convicting of perſons ſelling ſpirituous liquors without licence.*"

Preamble.

BE it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this act, if any perſon or perſons ſhall keep an inn or public houſe for the purpoſe of vending wine, brandy, rum or other ſpirituous liquors; unleſs he, ſhe, or they ſhall have previouſly obtained a licence in manner and form preſcribed, by an act paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "an Act for regulating the manner of licencing public houſes, and for the more eaſy convicting of perſons ſelling ſpirituous liquors without licence," ſuch perſon or perſons ſhall forfeit and pay the ſum of twenty pounds, to be, levied upon his, her, or their goods, and chattels, upon being convicted on the oath of any one credible witneſs, of his, her, or their having offended againſt the ſaid Act, in manner and form as is therein

Keepers of inns, &c. to be licenced.

Penalty for ſelling without licence.

therein mentioned; a moiety whereof ſhall be given to the informer, and the other moiety paid into the hands of his Majeſty's Receiver General, to and for the uſe of his Majeſty, his heirs and ſucceſſors, for the public uſes of this Province, and towards the ſupport of the government thereof, to be accounted for to his Majeſty, through the commiſſioners of his treaſury for the time being, in ſuch manner and form as it ſhall pleaſe his Majeſty to direct. Application thereof.

II. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for any perſon or perſons not having obtained a licence, and kept an inn or public houſe, at any time before, and being deſirous of keeping an inn or public houſe, to apply for a licence at any time during the year, to the magiſtrates of the diſtrict in which he reſides, in general quarter ſeſſions aſſembled, and it ſhall and may be lawful for the ſaid magiſtrates, to enquire into the character and behaviour of the perſon applying, and if it ſhall appear to them expedient to increaſe the number of inns or public houſes, and that the party applying is a ſober and honeſt man, the preſiding magiſtrate ſhall then and there grant him a certificate under his hand and ſeal, which certificate ſhall enable the party ſo holding the ſame to take out a licence; and the ſecretary of the Province or his agent, upon the production of ſuch certificate, ſhall be, and he is hereby authorized and directed to grant a licence accordingly; the perſon or perſons paying for the ſame ſuch ſum of money as is directed to be paid by all perſons receiving a licence to keep an inn or public houſe in this Province, and entering into a regular recognizance before the clerk of the peace, in manner and form as is preſcribed by a certain act paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "an Act for regulating the manner of licencing public houſes, and for the more eaſy convicting of perſons ſelling ſpirituous liquors without licence," any thing in the ſaid act or in any former act to the contrary hereof notwithſtanding. Caſes in which a licence to keep an inn may be granted in any general quarter ſeſſions, to perſons duly qualified. Manner of granting the ſame.

CHAP. IV.

An ACT *to amend certain parts of an Act, intituled, "An Act to fix the times and places of holding the Courts of General Quarter Seſſions of the Peace, within the ſeveral Diſtricts of this Province."*

WHEREAS it is expedient to alter the place of holding the court of general quarter ſeſſions of the peace in and for the Weſtern diſtrict of this Province; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That ſo much of a certain Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to fix the times and places of holding the courts of general quarter ſeſſions of the peace within the ſeveral diſtricts of this Province," which directs that the courts of quarter ſeſſions of the peace for the Weſtern diſtrict of this Province, ſhall commence and be holden in the town of *Detroit*, on ſuch days and times as are therein mentioned; and that a ſpecial ſeſſions of the peace ſhall commence and be holden yearly and in every year, in the town of *Michilimackinac*, at a certain time therein mentioned, be, and the ſame are hereby repealed accordingly. Preamble. Recital of Act 33 Geo. 3. The ſame in part repealed.

II. *And*

Regulations for the times and places of holding in future the courts of quarter sessions for Western district.

II. *And be it further Enacted*, That from and after the passing of this Act, the court of general quarter sessions of the peace for the Western district, shall commence and be holden in the parish of *Assumption*, in such place as may now be found most convenient to the magistrates of the said district, or the major part of them, on the second Tuesday in the month of July, on the second Tuesday in the month of October, on the second Tuesday in the month of January, and on the second Tuesday in the month of April, until such time as it shall seem expedient to the magistrates, or the major part of the magistrates of the said district, to remove and hold the same nearer to the island, called the *Isle* of *Bois Blanc*, being near the entrance of the river *Detroit*; and when it shall seem expedient to the said magistrates, or the major part of them, to hold the said general quarter sessions nearer to the said island, it shall and may be lawful for them to remove the same, having given due notice of such intended removal, at least three months before the same shall be removed as aforesaid.

And of holding the district court for the same.

III. And whereas by a certain other Act passed in the thirty-fourth year of his Majesty's reign, intituled, "An Act to establish a court for the cognizance of small causes in each and every district of this Province," the district court in and for the Western district, of this Province, is appointed to be holden in the town of *Detroit*, in the said district, but as it seems not to be any longer expedient to hold the said court in the town of *Detroit* aforesaid, Be it enacted, that from and after the passing of this Act, the district court in and for the said district, shall be holden at and in the same place where the general quarter sessions may be holden under and by virtue of the authority of this Act.

Alterations in the terms of holding the sessions in the Eastern and Midland districts.

IV. *And be it further Enacted by the Authority aforesaid*, That the courts of quarter sessions for the Midland district, and the Eastern district, shall hereafter be held on the fourth Tuesday in the month of January, and the fourth Tuesday in the month of April, instead of the second Tuesday in the month of January, and the second Tuesday in the month of April.

CHAP. V.

An ACT *to repeal certain parts of an Act passed in the thirty-third year of his Majesty's reign, intituled*, "*An Act to encourage the destroying of Wolves and Bears in different parts of this Province.*"

Preamble.

WHEREAS it is found to be no longer necessary to encourage by a public bounty the destroying of bears in any part of this Province; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, so much of a certain Act passed in the thirty-third year of his Majesty's reign, intituled, "An Act to encourage the destroying of wolves and bears in different parts of this Province," as enacts the payment of any sum or sums of money, for the killing of any bear or bears, according to the provisions in the said Act contained, shall cease and determine; and the said Act in so far as it relates to the payment

Recital of act 33 Geo. 3.

of

of such sum or sums of money for the killing of such bear or bears as aforesaid, shall in that respect be, and is hereby declared to be repealed; any thing therein contained to the contrary hereof notwithstanding.

The same in so much as it relates to bears repealed.

CHAP. VI.

An ACT *to authorize the Lieutenant Governor to nominate and appoint certain Commissioners for the purposes herein mentioned.*

Preamble.

WHEREAS the time limited by a certain Act passed in the thirty-fifth year of his Majesty's reign, ratifying, approving and confirming the provisional agreement entered into by the commissioners on behalf of this Province, with the commissioners on behalf of the Province of *Lower Canada*; by virtue of an Act passed in the thirty-third year of his Majesty's reign, for the purposes therein mentioned, will expire on the last day of December next ensuing: And whereas it is expedient, that new arrangements should take place between the said Provinces, respecting the collection of duties or payments of drawbacks to be imposed and allowed on goods passing from one province into the other, by the Legislature of each province respectively; and of and concerning any regulations, provisions, matters, and things, which might regard the commerce, manufactures, or produce of the said Province,

Address.

May it please your Excellency,

WE his Majesty's most dutiful and loyal subjects, the Members of the House of Assembly of the Province of *Upper Canada*, being anxious to continue the generous intercourse which subsists between this his Majesty's Province, and his Province of *Lower Canada*; do most earnestly request your Excellency, that for the mutual convenience and benefit of his Majesty's subjects within the said Provinces; and in order to continue the good correspondence between them, it may be enacted; And be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering his Majesty's government in this Province, from time to time by letters patent under the great seal of the Province, to commission, authorize and empower, three able and discreet persons, two of whom shall be a quorum, to treat, consult and agree with the persons to be duly authorized for that purpose; by a power to be granted by an Act of the Legislature of his Majesty's Province of *Lower Canada*, of, and concerning the establishing such regulations as may regard the collection of duties or payments of drawbacks to be imposed or allowed on goods passing from one Province into the other, by the Legislature of each Province respectively; and of, and concerning any proportions to be received and paid, of any equal duties already imposed or hereafter to be imposed by the said Legislatures respectively, on any article or commodity passing from one Province into the other; and of, and concerning any regulations, provisions, matters and things, which may regard the commerce, manufactures or produce of the said Province.

Person administering the government authorized to appoint commissioners, establish rules for the collection of duties, &c.

II. *Provided always, and be it Enacted and Declared*, That no regulation, provision,

Such regulations of no force

until confirmed.

vision, matter, or thing so proposed, treated, consulted or agreed, shall have any other force or effect, or be carried any further into execution until the same shall have been confirmed by the Legislature of this Province.

Duration of this Act.

III. *And be it further Enacted*, That this Act shall continue in force until the first day of August, which will be in the year of our Lord, one thousand seven hundred and ninety-eight, and no longer.

CHAP. VII.

An ACT *to amend an Act, intituled, "An Act to authorize and direct the laying and collecting of Assessments and Rates in every District within this Province, and to provide for the payment of Wages to the Members of the House of Assembly."*

Preamble.

WHEREAS by an Act passed in the thirty-third year of his Majesty's reign, intituled, "An Act to authorize and direct the laying and collecting of assessments and rates in every district within this Province, and to provide for the payment of wages to the members of the house of assembly," the magistrates in and for the several districts, were authorized and empowered in their general quarter sessions, in the month of April assembled, or the greater part of them, to cause an estimate to be laid before them, of the sum or sums of money, that might be necessary to defray the charges and expences accruing in their respective districts for the uses and purposes in the said Act mentioned: and whereas it seems necessary to enlarge their powers for the present year; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That it shall and may be lawful to and for the magistrates of each and every district, if it shall and may to them seem necessary, in the general quarter sessions, now next ensuing the passing of this Act, assembled, or the greater part of them, to cause an estimate to be laid before them, of the sum or sums of money that may be necessary to defray the charges and expences accruing in their respective districts, for the uses and purposes in the said Act mentioned, for the ensuing year; and having determined and resolved upon the same, to cause the amount of the sum to be raised to be divided in an exact proportion to the rate with which each class is severally charged, as herein before is provided in a certain Act for that purpose, intituled, "An Act to amend certain parts of an Act passed in the thirty third year of his Majesty's reign, intituled, "An Act to authorize and direct the laying and collecting of assessments and rates in every district within this Province, and to provide for the payment of wages to the members of the house of assembly," and to declare that the assessment required will be half a rate, a third, fourth, fifth, eighth, or any aliquot part of a rate, if it shall not be deemed necessary to raise an entire rate, according to the proportions aforesaid, by computing the proportion which the sum proposed to be raised bears to the amount of the sum which shall have been raised by and under the authority of the first abovementioned Act, or which shall have been or which legally may be raised by and under the authority of the Act

Recital of Act 33 Geo. III.

An entire rate, or any aliquot part thereof may be laid and raised in every district whereof the magistrates in their next general sessions shall deem necessary for immediate exigencies.

passed

paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "An Act to amend certain parts of an Act, paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to authorize and direct the laying and collecting of aſſeſſments and rates in every diſtrict within this Province, and to provide for the payment of wages to the members of the houſe of aſſembly," and to apply the ſame as in and by the abovementioned Act or Acts, or either of them, ſhall or may be directed; any thing in either of the ſaid abovementioned Act or Acts to the contrary hereof, in any wiſe notwithſtanding.

THE STATUTES OF HIS MAJESTY's PROVINCE OF Upper Canada.

PASSED IN THE FIRST SESSION OF THE SECOND PROVINCIAL PARLIAMENT OF UPPER CANADA, MET AT YORK, ON THE FIRST DAY OF JUNE, IN THE THIRTY-SEVENTH YEAR OF THE REIGN OF OUR SOVEREIGN LORD, GEORGE THE THIRD, AND PROROGUED ON THE THIRD DAY OF JULY FOLLOWING.

CHAP. I.

An ACT *for the better ſecuring the Province againſt the King's Enemies.*

Preamble.

WHEREAS the laws now in force againſt alien enemies, may not prove ſufficient to ſecure the tranquility of the Province; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this act, no perſon of whatever name, character or deſcription, being an inhabitant, ſubject or citizen of, or owing or profeſſing to owe allegiance to any country, kingdom, ſtate or commonwealth, now at war againſt our ſovereign Lord the King, or who ſhall have been an inhabitant, ſubject or citizen of, or owing allegiance to any ſuch country, kingdom, ſtate or commonwealth within the ſpace of ſeven years preceding the paſſing of this Act, except as herein after ex-

Deſcription of perſons ſubject to the proviſions of this Act.

cepted, ſhall be permitted to enter, remain, reſide or dwell in any part of this province, under the pains and penalties herein after expreſſed.

Duty of juſtices reſpecting ſuch.

II. *And be it further Enacted*, That if any perſon from and after the paſſing of this Act, of whatever character or deſcription, being an inhabitant, ſubject or citizen of, or owing or profeſſing to owe allegiance to any country, kingdom, ſtate or commonwealth, now at war againſt our ſovereign Lord the King, or who ſhall have been an inhabitant, ſubject or citizen of, or owing allegiance to any ſuch country, kingdom, ſtate or commonwealth, within the ſpace of ſeven years preceding the paſſing of this Act, (except as hereafter excepted) ſhall enter, remain, reſide, dwell or be found in any part of this province, it ſhall and may be lawful for any of his Majeſty's juſtices of the peace, to iſſue his warrant for the apprehenſion of ſuch perſon; and upon a due examination of, and finding him to fall within the deſcription, intent and meaning of this Act, to order him to leave the province within four and twenty hours; and in caſe he ſhall be found within the limits of this province after that time, it ſhall and may be lawful to and for any perſon with or without warrant, to ſeize and carry him before any of his Majeſty's juſtices of the peace, who ſhall commit him to the common gaol of the diſtrict, county or place where he ſhall be ſo found after the expiration of the time aforeſaid, for the ſpace of one month, at the end of which time, he ſhall be again required and ordered by any of his Majeſty's juſtices of the peace, to leave this province within the ſpace of twenty-four hours; and in caſe he ſhall again be found within the limits thereof, at the expiration of that time, he ſhall upon conviction thereof, before any commiſſion of oyer and terminer, be deemed and adjudged a felon, and ſhall ſuffer death without benefit of clergy.

Exception to perſons having licence of reſidence.

III. *Provided always*, That this Act ſhall not extend, or be conſtrued to extend to any perſon having leave, licence or authority from the Governor, Lieutenant Governor, or perſon adminiſtering the government of this province, under his hand and ſeal, to enter, remain, reſide or dwell in any part of the ſaid province.

No perſon to entertain ſuch enemy,

IV. *And be it further Enacted*, That if any perſon now living and reſiding, or hereafter living and reſiding, during the continuance of this Act, within the province, ſhall knowingly receive, entertain, protect, countenance, ſupport or encourage any perſon of whatever name, deſcription or character, being an inhabitant, ſubject or citizen of, or owing allegiance to, or profeſſing to owe allegiance to any country, kingdom, ſtate or commonwealth, or who ſhall have been an inhabitant, ſubject or citizen of, or owing allegiance to any country, kingdom, ſtate or commonwealth, within the ſpace of ſeven years, preceding the paſſing of this Act, now at war againſt our ſovereign Lord the King, to enter, remain, reſide or dwell in any part of this province, except as before excepted, and ſhall be duly convicted thereof, in any of his Majeſty's courts of record in this province, by indictment or information, he ſhall be deemed guilty of an high miſdemeanor, and ſubject to the pains and penalties in all caſes of miſdemeanor impoſed and inflicted.

Penalty thereon

Subject's authority and duty in the caſe of ſuſpected perſons.

V. *And be it further Enacted*, That it ſhall and may be lawful to and for any of his Majeſty's ſubjects, having reaſonable cauſe to ſuſpect a perſon of being an inhabitant, ſubject or citizen of, or owing or profeſſing to owe allegiance to any country, kingdom, ſtate or commonwealth, or who ſhall have been an inhabitant, ſubject or citizen of, or owing allegiance to any country, kingdom, ſtate

or

or commonwealth, within the ſpace of ſeven years preceding the paſſing of this act, now at war againſt our ſovereign Lord the King, peaceably to demand, and he is hereby required to demand, of ſuch perſon his certificate of permiſſion, leave, licence or authority to enter into, remain, reſide or dwell in the place where ſuch perſon ſhall then and there be, being in the ſaid province; and if, upon ſuch demand, the perſon ſo ſuſpected ſhall not produce and ſhew to the ſubject demanding the leave, licence or authority that he may have under the hand and ſeal of the Governor, Lieutenant Governor, or perſon adminiſtering the government, or certificate of permiſſion as aforeſaid, he ſhall forthwith cauſe his ſuſpicion to be made known upon oath to the neareſt magiſtrate, who ſhall iſſue his warrant for the apprehenſion of the perſon ſuſpected, to be dealt with as herein before provided.

VI. *And be it further Enacted*, That this Act ſhall be openly read in court by the clerk of the peace or his deputy, on the firſt day of every ſeſſion to be held in each and every diſtrict of this province during the continuance thereof. And that the ſaid Act, and the proviſions therein contained, ſhall remain, continue, and be in force for and during the ſpace of two years, and no longer.

This act to be publicly read.

Limitation of this act.

CHAP. II.

An ACT *to enable the inhabitants of the Townſhip of York, to aſſemble for the purpoſe of chooſing and nominating Pariſh and Town Officers.*

WHEREAS by an Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to provide for the nomination and appointment of pariſh and town officers," the inhabitants of any pariſh, townſhip, reputed townſhip or place, can only be aſſembled on the firſt Monday in the month of March in every year: and whereas it is expedient, that in the townſhip of York, the inhabitants ſhould be immediately aſſembled for the purpoſes mentioned in the ſaid act; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That the inhabitants of the ſaid townſhip, ſhall be called together, as ſoon after the paſſing of this Act as convenient, in the ſame manner and for the ſame purpoſes as are directed by the ſaid recited Act, and any two of his Majeſty's juſtices are hereby empowered to appoint one or more conſtable or conſtables as they ſhall think fit, to ſerve in the ſaid townſhip.

Preamble.

Time for, and purpoſes of aſſembling.

CHAP. III.

An ACT *for ſecuring the Titles to Lands in this Province.*

WHEREAS many perſons are poſſeſſed of lands in this Province under Land Board Certificates, and otherwiſe, by authority of his Majeſty's Government, and now hold, or claim to hold the ſame, either as the original nominees, or as the heirs, deviſees, or aſſignees of the original nominees thereof, of which lands no Grants have as yet iſſued under the Great Seal of this Province, whereby the legal eſtate and intereſt thereof is ſtill veſted in his Majeſty: for the ſecuring of all ſuch perſons in the ownerſhip and poſſeſſion of ſuch lands, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and

Preamble.

and appointed by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, intituled, "An Act to repeal certains 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," and by the authority of the same, That it shall and may be lawful to and for the Governor, Lieutenant Governor, or person administering the goverment of this Province, at any time during the space of three years from the passing of this Act, to issue such and so many commissions under the Great Seal of this Province, for the Eastern, Midland and Western districts, and also for the county of Lincoln in the Home district, as he shall think proper, to three or more persons, whereof his Majesty's Chief Justice of this Province, or one of the justices of the Court of King's Bench shall be one; which commissioners shall have power and authority in their respective districts, to hear and determine all applications that shall or may be made to them by persons holding, or claiming to hold lands as aforesaid, for grants thereof under the Great Seal of this Province, in like manner as the same might be heard and determined by his Majesty's Executive Council.

Governor, &c. to appoint commissioners.

Their authority,

How persons claiming, may appear.

II. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful to and for the persons so holding, or claiming to hold as aforesaid, to come before the said commissioners either in person or by their agents, constituted and appointed under their hands and seals, and to produce to the said commissioners, the several documents, vouchers and other evidences on which they severally found their said claims, and the said commissioners or any two of them, whereof the said Chief Justice, or justice of the Court of King's Bench shall be one, shall proceed to hear, decide, and report thereon in manner herein after mentioned; and shall for that purpose have full power and authority to administer such oaths, and also by warrant under their hands or the hand of one of them, compel the attendance of all such persons; and also the production of all such books, papers and other evidences as they in their discretion shall think necessary or proper.

The commissioners may compel attendance, and production of papers, &c.

How they shall be guided.

III. *And be it further Enacted by the Authority aforesaid*, That in hearing and deciding on all such claims, whether the same be between subject and subject, or between the subject and the crown, the said commissioners shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct themselves by the best evidence that they can procure, or that is laid before them, whether the same be such evidence as the law would require in other cases or not; and in case they, or the major part of them shall be satisfied, that the person or persons so holding, or claiming to hold the said lands as aforesaid, is or are entitled in equity and good conscience to hold the same, either as the original nominee or nominees thereof, or as the heir or heirs, devisee or devisees, or bona fide assignee or assignees of such original nominee or nominees, or by any other derivative title from such original nominee or nominees, the validity of which derivative title shall be judged of in like manner. They the said commissioners, shall report the same in manner herein after mentioned.

To give notice 15 days before the day of examination.

IV. *Provided nevertheless, and be it hereby further Enacted by the Authority aforesaid*, That the said commissioners shall not proceed to examine any such claim as aforesaid, unless they shall have caused notice in writing of their intention to proceed upon the business of their said commission, to be fixed up in some conspicuous part of the office of the clerk of the peace, and at three other the most public places of each district respectively, at least one month before they shall begin to act therein; and also, unless notice of such claim, and of the name of the claimant, and also a description of the lands, in respect of which such claim is made, shall be fixed up in some conspicuous part of the said office, at least fifteen days before the same shall come on to be heard.

Interested persons may file caveats against such hearing.

V. *Provided further, and be it hereby Enacted by the Authority aforesaid*, That it shall and may be lawful to and for all persons interested, or claiming to be interested in such lands as aforesaid, to file caveats in the said office of the clerk

clerk of the peace, againſt the hearing of any ſuch claim or claims as aforeſaid, but in their preſence, or in the preſence of their agents properly conſtituted under their hands and ſeals; and alſo to attend in perſon, or by their ſaid agents, when the ſaid claim ſhall be brought forward, and to be heard againſt the ſame; but ſuch caveat ſhall not retard the hearing of the ſaid claim or claims, beyond fifteen days from the day on which the ſame ſhall have been entered in the office of the ſaid clerk of the peace, unleſs it ſhall appear to the ſaid commiſſioners that the real juſtice of the caſe requires that the ſame ſhall be deferred, in which caſe it ſhall and may be lawful for them to defer the ſame.

Such caveats not to retard beyond 15 days except, &c.

VI. *And be it further Enacted by the Authority aforeſaid,* That the ſaid commiſſioners ſhall from time to time tranſmit to the clerk of the executive council of this Province, a report of all ſuch claims as they ſhall have examined and decided on, and the perſon or perſons in whoſe favor they ſhall have reported, ſhall be conſidered as entitled to have a grant or grants under the great ſeal of this Province, of the lands in reſpect of which ſuch report ſhall be made, and the ſame ſhall iſſue to ſuch perſon or perſons, or his or their heir or heirs accordingly.

Commiſſioners to report to the clerk of the Executive Council, and grants to iſſue accordingly.

VII. *Provided nevertheleſs, and be it hereby further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful to and for any perſon or perſons who ſhall conceive him or themſelves to be aggrieved by the deciſion of the ſaid commiſſioners, to appeal therefrom to his Majeſty's executive council.

Aggrieved perſons may appeal.

VIII. *Provided furthermore,* That no ſuch appeal ſhall be received by the ſaid executive council, unleſs the appellant ſhall give notice to the ſaid commiſſioners of his intention to appear within three days from the making of ſuch deciſion; and ſhall alſo at the ſame time give ſecurity to the ſatisfaction of the ſaid commiſſioners, that he will proſecute his ſaid appeal with effect, or in default thereof, will pay ſuch coſts to the perſon or perſons in whoſe favor ſuch report ſhall have been made, as the ſaid council in its diſcretion ſhall award.

Appellant to give notice, &c. and ſecurity.

IX. *And be it further Enacted by the Authority aforeſaid,* That in caſe it ſhall appear to the ſaid commiſſioners that the ſaid lands, or any part of them, in reſpect of which a deed or deeds ſhall be claimed are really and bona fide ſubject to any mortgage or other contract thereof theretofore made, it ſhall and may be lawful to and for the ſaid commiſſioners on application for that purpoſe by the perſon or perſons intitled to, or intereſted in ſuch mortgage or other contract, to certify that the ſaid lands, or any part of them, are ſo ſubject as aforeſaid, and it ſhall and may be lawful to and for the perſon or perſons ſo intitled and intereſted, on producing the certificate of the ſaid commiſſioners, to the regiſter of the county or riding in which ſuch lands ſhall be, to cauſe the ſame to be enregiſtered, and the ſaid regiſter is hereby required and authorized to enregiſter the ſame in like manner, and in the ſame order and priority, and ſubject to the like rules and reſtrictions, and ſuch enregiſtration ſhall have the like force and effect, as if grants under the great ſeal had theretofore iſſued of ſuch lands at the time or times, when ſuch mortgage or mortgages or other contracts were made.

In caſe of mortgage, &c. the commiſſioners to certify the ſame.

The regiſter to enregiſter the ſame.

X. *And be it further Enacted by the Authority aforeſaid,* That all judgments which would have bound the ſaid lands, or any part of them, in caſe grants under the great ſeal had theretofore iſſued thereof, before ſuch judgments were had, ſhall be let in to and have the ſame force and effect upon the ſaid lands, as they would in ſuch caſe have had, any law to the contrary notwithſtanding.

In what caſe judgment, may be let in.

XI. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and

may

Clerk of the peace, clerk to the commission.

may be lawful to and for the clerk of the peace, who is hereby authorized and empowered to act as clerk to the said commission, to demand and receive to and from the several persons who shall apply to him for any of the purposes of this Act, the following

FEES:

Fees.

	£.	s.	d.
For receiving, fixing up in his office, and setting down for hearing any claim for a grant, and also for making up a report respecting the same,	0	2	6
For receiving and setting down for hearing any caveat,	0	2	6
For a copy of the order respecting each claim respectively,	0	2	6
For receiving and transmitting to the clerk of the executive council any notice of appeal,	0	5	9

CHAP. IV.

An ACT *for regulating the Practice of the Court of King's Bench.*

Preamble.

FOR the more easy and convenient administration of justice by the court of King's bench; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That from and after the first day of October next, it shall and may be lawful to and for the clerk of the crown and pleas of this Province to have, and he is hereby required to have in each and every district of the same, and also in the town of *Newark*, in the county of *Lincoln*, in the Home district, an office in which actions in the said court of King's bench may be instituted, and the parties plead to issue, in like manner as is now done in the office of the said clerk, in the district in which the said court is holden; and that for that purpose the said clerk be, and he hereby is authorized and required to supply his deputy in each district, and also in the said town of *Newark*, from time to time, with blank writs of the said court, properly signed and sealed, which his said deputy is hereby authorized and required to fill up as occasion may require.

The clerk to keep an office in each district.

II. And whereas many and great inconveniences have followed from the length of time which by the present practice of the said court must intervene between the teste and the return of writs; Be it enacted by the authority aforesaid, That from and after the day aforesaid, every Monday in the course of the year, except Easter Monday, and Christmas-day, in case it shall happen on a Monday, shall be a return day for the return of writs issuing out of the said court of King's bench, and no other day or days whatsoever be the return day or days for such writs; and that not less than fifteen days shall intervene, between the teste and return of any process issuing out of the said court in any district of this Province.

Every Monday, except, &c. to be return day.

Time between the teste and return.

III. *And be it further Enacted by the Authority aforesaid*, That from and after the day aforesaid, Hilary term shall begin on the first Monday in the month of January, and end on the Saturday of the week ensuing; and that Easter term shall begin on the first Monday of the month of April, and end on the Saturday of the week ensuing; and that Trinity term shall begin on the first Monday of the month of July, and end on

Times of holding courts.

on the Saturday of the week enſuing; and that Michaelmas term ſhall begin on the firſt Monday of the month of November, and end on the Saturday of the week enſuing; and that all commiſſions of aſſize and niſi prius do iſſue, and alſo that the ſittings for the Home diſtrict be held in the vacations between Hilary and Eaſter terms, and between Trinity and Michaelmas terms, any law or uſage to the contrary notwithſtanding.

Original proceſs, what, &c.

IV. *And be it further Enacted by the Authority aforeſaid,* That in caſes which do not require ſpecial bail, the firſt and original proceſs of the ſaid court ſhall be by writ of ſummons, which may be in the following

FORM:

Form.

UPPER CANADA. DISTRICT, *To Wit:* } *GEORGE the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and ſo forth:— To the Sheriff of the Diſtrict, Greeting:*

WE command you that you ſummon A. B. to appear either in perſon or by his attorney before us in our court of our bench, on the day of now next enſuing, to anſwer the complaint of C. D. in a plea of (as the caſe may be) according to the annexed declaration; and herein fail not at your peril. Witneſs the honorable E. F. chief juſtice of our ſaid Province (or one of the juſtices of our ſaid court, as the caſe may be) this day of in the year of our reign.

How to be ſerved, and fees.

And that the plaintiff do cauſe the defendant to be ſerved with the ſaid writ of ſummons; and that the ſum of five ſhillings, and no more, be allowed in coſts for ſerving the ſame, but that there be no allowance whatever for milages.

In ſuits where defendant is not holden to bail, the ordinary courſe what.

V. And whereas doubts have ariſen with reſpect to the time when judgment may be ſigned for want of the defendant in any action having duly appeared thereto, Be it therefore enacted by the authority aforeſaid, That in all civil ſuits where the defendant ſhall not be holden to bail, the ordinary courſe of proceeding ſhall be by ſerving, or cauſing the defendant or defendants perſonally to be ſerved with a copy of the proceſs and declaration by ſome literate perſon, and if ſuch defendant or defendants ſhall not appear at the return of the proceſs, or within eight days after ſuch return, in ſuch caſe it ſhall and may be lawful for the plaintiff or plaintiffs, upon affidavit being made and filed of the perſonal ſervice of ſuch proceſs and declaration, which affidavit ſhall be filed gratis, to enter a common appearance for the defendant or defendants, and to proceed thereon as if ſuch defendant or defandants had entered his, her, or their appearance.

Defendant, in term, pleading dilatory plea, plaintiff may ſet down ſuch plea for argument.

VI. *And be it further Enacted by the Authority aforeſaid,* That wherever the defendant in any action ſhall, in term time, plead any dilatory plea, in caſe ſuch plea ſhall be of a matter of law, and not of fact, it ſhall and may be lawful to and for the plaintiff in the ſaid action to ſet down ſuch plea for argument on the next day on which the ſaid court ſhall ſit, or on any other day in the term, giving two days notice thereof to the defendant, or his attorney; and in caſe ſuch plea be filed in the time of vacation, or being filed in term time, the ſaid plaintiff ſhall neglect ſo to ſet down the ſame for argument as aforeſaid, it ſhall and may be lawful to and for the ſaid plaintiff to apply to any judge of the ſaid court to hear and determine the iſſue joined thereon in like manner as the ſame may now be done in open court; and in caſe the ſaid judge ſhall give judgment for the plaintiff, he the ſaid judge ſhall by an order under his hand direct the ſaid plea to be taken off the file, with coſts to be taxed by the proper officer; and the ſaid defendant ſhall within four days from the date of ſuch order plead an iſſuable plea, and ſhall rejoin gratis, and ſhall alſo be bound to go to trial at ſuch time as he would have been bound to go to trial in caſe he had pleaded ſuch iſſuable plea in the firſt inſtance, and not ſuch dilatory plea.

If filed in vacation, &c. or term, &c.

No writ of enquiry in caſes of judgment by default.

Damages when and how aſcertained.

VII. *And be it further Enacted by the Authority aforeſaid,* That from and after the day aforeſaid, no writ of enquiry ſhall iſſue to the ſheriff in caſes where judgment ſhall have gone by default; but in all ſuch caſes the damages ſhall be aſcertained at the ſame time and in like manner as if the parties had pleaded to iſſue, and that an entry thereof be made on the roll accordingly.

Juror's Fees.

VIII. *And be it further Enacted by the Authority aforeſaid,* That from and after the paſſing of this Act, every juror ſhall be allowed the ſum of fifteen-pence, inſtead of the ſum of one ſhilling which is now allowed in each cauſe in which he ſhall be ſworn as ſuch juror, to be paid to him in like manner as the ſaid ſum of one ſhilling is now paid.

CHAP. V.

An ACT *for the further regulation of the Militia of this Province.*

Preamble.

FOR the further regulation of the militia of this Province, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame,

Penalty for refuſing obedience to, or abuſing ſuperior officers

That every militia man who ſhall refuſe to obey the lawful orders of his ſuperior officer or officers, when employed on militia duty, or who ſhall quarrel with, or inſult by abuſive words or otherwiſe, any officer or non-commiſſioned officer, being in the execution of his duty, ſhall, for every ſuch offence, forfeit and pay a ſum of money not exceeding two pounds, nor leſs than five ſhillings current money of this Province, at the diſcretion of the juſtice or juſtices impoſing ſuch fine, and according to the nature of the offence.

Every perſon enrolled when and how to equip.

II. *And be it further Enacted by the Authority aforeſaid,* That every perſon who now is enrolled in any regiment, battalion, or independent company of militia, ſhall, within ſix months after the paſſing of this act, and every perſon who ſhall hereafter be enrolled of any regiment, battalion, or independent company of militia, ſhall, within ſix months after ſuch enrollment, provide himſelf with a good and ſufficient muſket, fuſil, rifle, or gun with at leaſt ſix rounds of powder and ball, and ſhall come provided with the ſame at each and every time when he ſhall be called out either for the purpoſe of review, exerciſe, or actual ſervice; and in caſe any perſon ſo enrolled ſhall refuſe or neglect ſo to provide himſelf, or to come ſo provided as aforeſaid, he ſhall for each offence be liable to a penalty of twenty ſhillings, to be levied in manner herein after mentioned. Provided always, That when and ſo often any militia man ſhall make it appear to his captain, or officer commanding the company that it has not been poſſible for him to procure ſuch muſket, fuſil, rifle, or gun, it ſhall and may be lawful for ſuch captain, or officer commanding ſuch company, to admit of ſuch excuſe, and to certify the ſame in writing accordingly, in which caſe ſuch militia man ſhall not be liable to pay the ſaid fine of twenty ſhillings.

Penalty for neglects.

Exception.

Penalty for withdrawing from review, &c.

III. *And be it further Enacted by the Authority aforeſaid,* That no perſon enrolled in the militia ſhall abſent or withdraw himſelf from any place of review or exerciſe without having firſt obtained leave of his commanding officer ſo to do, under the penalty of forty ſhillings, if a commiſſioned officer, and ten ſhillings if a non commiſſioned officer or private.

Penalty for ſerjeant's refuſal or neglect to warn.

IV. *And be it further Enacted by the Authority aforeſaid,* That if any ſerjeant of the militia when thereunto required by his ſuperior and proper officer, ſhall neglect or refuſe to warn the militia men of the company to which he belongs, to appear when required by his captain or next commanding officer, he ſhall, for every ſuch neglect or refuſal, forfeit and pay the ſum of forty ſhillings.

Serjeants exempt from ſerving as conſtables.

V. *And be it further Enacted by the Authority aforeſaid,* That every ſerjeant of the militia duly appointed, ſhall be exempted from ſerving as conſtable for and during ſuch time as he ſhall hold ſuch appointment of ſerjeant. VI.

VI. *And be it further Enacted by the Authority aforesaid*, That on the fourth day of June, in each and every year, respectively, or in case it shall happen on a Sunday, then on the next day, and oftener if thereunto required, there shall be a general meeting and review of the several battalions of militia in each and every district of this Province, at which time the captain, or officer commanding each company, shall give to his colonel, or in his absence, to the next senior officer, fair written rolls of their respective companies, which colonels or other commanding officers shall transmit the same to the lieutenant, or deputy lieutenant, or in his or their absence, to the lieutenant governor or person administering the government, under the penalty of five pounds for each captain, or other officer as aforesaid, who shall neglect or refuse so to do.

General meeting, when.

Captains, &c. to make returns.

Penalty for neglect.

VII. *And be it further Enacted by the Authority aforesaid*, That no Provincial allowance shall be made to the adjutant-general of the militia, any law to the contrary notwithstanding.

No allowance to the adjutant-general.

VIII. *And be it further Enacted by the Authority aforesaid*, That if any person be wounded, and shall be disabled upon any invasion, insurrection, or rebellion, he shall be taken care of, and provided for by the public, during the time of such disability.

Persons disabled, how provided for.

IX. *And be it futher Enacted by the Authority aforesaid*, That the twenty-fourth clause of an act of the legislature of this province, intituled "An act for the better regulation of the militia in this Province" be, and the same is hereby repealed.

24th clause of former act repealed.

X. *And be it further Enacted by the Authority aforesaid*, That the fines, forfeitures and penalties by the said Act imposed, or by this Act imposed, shall be sued for and recovered by, and upon the oath of any one credible witness before any two of his Majesty's justices of the peace, and within two months after such conviction and recovery shall be transmitted by the justices before whom such information shall be laid, to the lieutenant, or in case there be no lieutenant, or that he be absent, to the deputy lieutenant of the county where the offence has been committed; and the said lieutenants and deputy lieutenants, respectively, shall, and they are hereby required out of the several sums of money which they shall or may receive for fines, forfeitures, or penalties, or otherwise, by virtue of this Act, or of any other Act of the legislature of this Province which relates to the militia, to provide for the regiments in their respective counties or ridings, drums, fifes, colours, banners, regimental books, and for the discharge of other incidental expences; and in case any overplus of such monies shall remain in the hands of any such lieutenant, or deputy lieutenant, after providing such articles as aforesaid, such surplus shall be disposed of in premiums to the persons who shall make the best shot at a target or mark, upon days of training, and in such proportions as at a meeting of the lieutenancy, or deputy lieutenancy, shall be directed; and each lieutenant, or deputy lieutenant, shall render a certified account thereof in detail, to be transmitted to the lieutenant governor, or person administering the government, as soon after the thirty-first day of December, annually, as practicable.

Fines, &c. how to be recovered and applied.

XI. *And be it further Enacted by the Authority aforesaid*, That upon pressing and urgent occasions, in the time of war or insurrection, it shall and may be lawful for the Lieutenant Governor, or person administering the government, to march such part of the militia of this Province as he shall think proper, to the assistance of the Province of *Lower Canada*.

Militia may be marched to the assistance of Lower Canada.

CHAP. VI.

An ACT *to extend the Juriſdiction, and regulate the Proceedings of the Diſtrict Court and Court of Requeſts.*

Preamble.

BE it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That the juriſdiction of the ſeveral courts conſtituted and appointed under and by virtue of a certain Act paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "An Act to eſtabliſh a court for the cognizance of ſmall cauſes in each and every diſtrict of this Province," ſhall be extended from the ſum of fifteen, to the ſum of forty pounds lawful money of this Province, in ſuch actions of contract only as relate to mere matters of debt, and are brought for the ſole purpoſe of recovering ſome ſum, or ſums of money, the amount of which is already liquidated, or aſcertained, either by the nature of the tranſaction itſelf, or by the act of the parties, and not for any other purpoſe or intent whatever.

Juriſdiction of the court for trial of ſmall cauſes extended from 15l. to 40l. in actions of debt where the amount is aſcertained, &c.

II. *And be it further Enacted by the Authority aforeſaid*, That the ſaid court ſhall have cognizance of all queſtions of property in perſonal chattels, where the value of the thing claimed does not exceed the ſum of fifteen pounds; and ſhall alſo award damages to the like amount, in all matters of treſpaſs, where the title to land does not come in queſtion, and where future rights will not be bound by the deciſion of the ſaid court.

May have cognizance of queſtions of property in perſonal chattels, and award in matters of treſpaſs to the amount of 15l. except &c.

III. *Provided nevertheleſs*, That nothing herein contained ſhall be taken, or conſtrued to extend the juriſdiction of the ſaid court to actions in the nature of actions of aſſault and battery, or falſe impriſonment, or in any wiſe to affect the juriſdiction of the court of King's bench.

The juriſdiction not to extend to certain actions, nor to affect the juriſdiction of K. B.

IV. *And be it further Enacted by the Authority aforeſaid*, That no perſon whatſoever ſhall claim, or be entitled to any other or greater fee for any buſineſs done by him in the ſaid court either as attorney, ſheriff, clerk, crier, or judge, than is ſet down for him in the ſaid Act; or any fee for any other buſineſs done by him in the ſaid court, other than the buſineſs which is preſcribed and directed by the ſaid Act, nor ſhall any ſuch fee be allowed in any bill of coſts.

Fees.

V. *And be it further Enacted by the Authority aforeſaid*, That where judgment ſhall be by default, no writ of enquiry ſhall iſſue to the ſheriff; but the amount of the debt ſhall be aſcertained at the ſame time, and in the ſame manner as the ſame would or might have been aſcertained in caſe the defendant had appeared to the declaration, or ſummons, which are hereby declared to be one and the ſame, and not ſeveral or diſtinct proceedings in the ſaid court.

No writ of enquiry to iſſue on judgment by default: amount how to be aſcertained.

VI. *And be it further Enacted by the Authority aforeſaid*, That the ſum of two ſhillings and ſix pence ſhall be allowed for the ſervice of the ſaid declaration, or ſummons: but that no milage whatever be allowed for the ſame, either in the ſaid diſtrict court, or in the court of requeſts; and that an affidavit of the ſervice

Fees for ſervice

Affidavit of ſer-

vice of such process may be made before any of his Majesty's justices of the peace other than the plaintiff himself, in case he shall be one of such justices.

vice before whom to be made.

VII. *And be it further Enacted by the Authority aforesaid*, That the justices of assize and nisi prius, in their circuits in each and every district of this Province, shall be, and they are hereby authorized and empowered to act as visitors of the said district courts, and also of the several courts of request within the said districts, in like manner as is now done by his Majesty's court of King's bench.

Justices of assize and nisi prius in their circuits may act as visitors.

CHAP. VII.

An ACT *for the more easy Barring of Dower.*

Preamble.

FOR the more easy barring of dower; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That it shall and may be lawful to and for any person intitled to dower, by any deed executed either alone or jointly with other persons, to release all her right and title to dower in the lands, tenements or hereditaments therein mentioned and described; and such release shall be as valid and effectual to bar the person executing the same of dower in such lands, tenements, and hereditaments, and every part thereof, as if a fine had been levied thereof, any law or usage to the contrary notwithstanding.

Persons entitled to dower, by deed, jointly or alone, may release their right, and such release to be an effectual bar,

II. *Provided nevertheless*, that no such release so executed as aforesaid, shall have any force or effect to bar the person so intitled to dower, and executing the same, unless such person shall come before his Majesty's Chief Justice of this Province, or one of the justices of the court of King's bench, or shall appear at some general quarter sessions of the peace for the district, county, or place in which she shall reside, and shall have been examined by such Chief Justice, or justice, or by the chairman or presiding magistrate of such quarter sessions, when not less than three magistrates besides himself shall be present, touching her consent to be barred of dower in the premises in the said deed or writing mentioned; and in case she shall give her consent thereto, and it shall appear to the said Chief Justice, or justice, or to the said court, that such consent is free and voluntary, and not the effect of any coercion on the part of her husband, or any other person, it shall and may be lawful to and for the said Chief Justice, or justice, or to the said chairman, or other presiding magistrate, and they are, and each of them respectively, is hereby required to certify the same by indorsement on the said deed, which certificate, in the case of the said court of quarter sessions, may be in the following

provided such persons come before, &c. and consent thereto, which shall be certified.

FORM:—

Form of certificate.

AT a general quarter sessions for the district of held at in the county of on the day of personally appeared the within named A. B. and being openly examined in the presence of L. M. C. D. E. F. and G. H. (at least four) esquires, his Majesty's justices of the peace in and for the said district, touching her consent thereto, and did appear to this court to give the same freely and voluntarily, without any coercion on the part of her husband, or any other person. S. M. *Chairman.*

Clerk's fees.

And the clerk of the peace shall be intitled to receive the sum of five shillings, and no more, for the said certificate.

Certificate to be enregistered.

III. *Provided nevertheless*, That nothing in this Act contained shall be taken to bar any person of dower, unless the said certificate shall within six months after the making of the same, be duly enregistered according to the provisions of an act passed in the thirty fifth year of his Majesty's reign, intituled, "An Act for the public registering of deeds, conveyances, wills, and other incrumbrances, which shall be made, or may effect any lands, tenements, or hereditaments within this Province."

CHAP. VIII.

An ACT *to supply the want of Enrollment of Deeds of Bargain and Sale.*

Preamble.

WHEREAS in certain cases, lands have been intended to have been conveyed by deed of bargain and sale; and whereas such deeds of bargain and sale not having been enrolled in a court of record, are not valid in law; in order therefore to prevent the injury that might hence arise to his Majesty's subjects in this Province, and for the better regulating the conveyance of land in future; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That wherever any lands have been sold, or shall hereafter be sold under deed of bargain and sale, and such deed of bargain and sale hath been, or shall hereafter be duly enregistered in the register office of the county in which such lands are situate, agreeably to the provisions of an Act passed in the thirty-fifth year of his Majesty's reign, intituled, "An Act for the public registering of deeds, conveyances, wills and other incumbrances which shall be made, or may effect any lands, tenements, or hereditaments within this Province," the same shall be, and is hereby declared to be a good and valid conveyance in law.

Deeds of sale to lands sold, or to be sold, that have been, or hereafter shall be enregistered agreeably to the Act of 35th of Geo. 3d. declared valid.

CHAP. IX.

An ACT *to enlarge the time between the issuing and the opening of Commissions of Assize and Nisi Prius, in and for the Home District, and for altering the time of holding the Sittings for the said District.*

WHEREAS by the nineteenth clause of a certain Act passed in the thirty-fourth year of his Majesty's reign, intituled, "An Act to establish a superior court of civil and criminal jurisdiction, and to regulate the court of appeal," all suits and actions that arise, and are triable within the Home district, are directed to be tried within term time, or within ten days next after the end of every Easter and Trinity term, respectively; and whereas it is expedient to enlarge the times of issuing and opening the respective commissions for the hearing and trying of such suits and actions, and to alter the time of holding the sittings for the said district, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly

assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That all commissions of assize and nisi prius shall be issued after the terms of Hilary and Trinity, respectively, and shall be tested on the last day of each of those terms; and the chief justice, or any other judge of the said court in his absence, shall, as judge of assize and nisi prius, issue his precept to the sheriff of the said district, for the summoning of jurors for the trying of all such issues as may be joined in the said court, and arise and be triable in the said district, as by law he is authorized to do, so that the same may be in no instance holden sooner than eight days from the end of Hilary and Trinity terms, respectively.

CHAP. X.

An ACT *for the regulation of Ferries.*

Preamble.

WHEREAS it is necessary for the convenience of his Majesty's subjects, that ferries should be put under proper regulations within this Province, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for his Majesty's justices of the peace, in and for the several districts of this Province, in their general quarter sessions assembled, and they are hereby authorized and empowered, from time to time, to make and ordain such rules and regulations as to them, or to the greater part of them, may appear necessary and proper to be observed and followed at such ferry or ferries by the person or persons attending the same, or having the charge thereof; and also to establish and assess such rates and fees as the person or persons attending such ferry or ferries shall and may demand and receive for the passage of persons, cattle, carriages, or wares thereat; a list or table of which rules and regulations, rates and fees shall be set up in some conspicuous place at every such ferry or ferries for public inspection; and any person attending, or having charge of a ferry, who shall be convicted before any one justice of the peace, of demanding or receiving any higher or greater rate or fee than such as shall be so established, assessed and allowed, or of any breach of any such rules and regulations so made and ordained as aforesaid, shall for every such offence forfeit and pay the sum of twenty shillings, to be recovered before any one justice of the peace, and levied by distress and sale of the offender's goods and chattels; one half of which penalty shall be paid to the informer or informers, and the other half to the treasurer of the district wherein the same may arise, to be applied to the public use of the district.

Quarter sessions to ordain rules and regulations,

and to assess the rates.

Table of regulations and fees to be posted up at the ferry.

Penalty for a ferryman convicted of a breach.

Penalty how to be recovered and disposed of.

CHAP. XI.

CHAP. XI.

An ACT to encreaſe the Revenue, and to compel the Accounting more regularly for the ſame to the Treaſurer of the Province.

Most Gracious Sovereign,

Addreſs.

WHEREAS the proviſions contained in a certain Act of the parliament of this Province, paſſed in the thirty-third year of your Majeſty's reign, intituled, "An Act to eſtabliſh a further fund for the payment of the ſalaries of the officers of the legiſlative council and houſe of aſſembly, and for defraying the contingent expences thereof;" in ſo far as the ſame did extend to perſons retailing ſpirituous liquors, or wines, in leſs quantities than three gallons, but not keeping a houſe of public entertainment, are expired: We your Majeſty's moſt dutiful and loyal ſubjects, the repreſentatives of the people of the Province of *Upper Canada*, in parliament aſſembled, do moſt humbly beſeech your Majeſty that it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the fifth day of Auguſt in this preſent year, and from and after the fifth day of April in every year enſuing, every ſhop-keeper, or other perſon whatſoever, who ſhall ſell or vend any wine, brandy, rum, or other ſpirituous liquor, in leſs quantity at any one time than three gallons, ſhall be poſſeſſed of a licence for that purpoſe, whether he or ſhe does keep a houſe of public entertainment, or does not; which licence it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering the government, by or through the ſecretary of the Province, or other perſon or perſons whom he ſhall authorize to iſſue the ſame, to grant upon payment of the like rates, duties and fees, as by law are now paid by any perſon licenced to keep a houſe of public entertainment, for his or her licence ſo to do: ſuch rates and duties to be collected, paid and applied in like manner and form, and to the ſame uſes as by the herein before recited Act of the parliament of this Province is directed, and if any perſon ſhall at any time after the time or times reſpectively herein ſpecified and limited, ſell or vend any wine, rum, brandy or other ſpirituous liquor, in leſs quantity than three gallons, not being poſſeſſed as aforeſaid, of a licence for that purpoſe, and ſhall be thereof convicted in manner and form ſet forth by a certain Act of the parliament of this Province, intituled, "An Act for regulating the manner of licencing public houſes, and for the more eaſy convicting of perſons ſelling ſpirituous liquors without licence," he or ſhe ſhall forfeit and pay the ſum of twenty pounds; a moiety whereof ſhall be paid to the informer, and the other moiety ſhall be paid into the hands of his Majeſty's receiver general, to and for the uſe of his Majeſty, his heirs and ſucceſſors, and towards the ſupport of the government of this Province, to be accounted for to his Majeſty through the commiſſioners of his Majeſty's treaſury for the time being, in ſuch manner and form as it ſhall pleaſe his Majeſty to direct.

After, &c. and annually, no perſon to ſell leſs than three gallons without licence.

Governor to grant licence.

Rates and duties how collected, &c.

Penalty for ſelling without licence.

Penalty how to be applied.

II. And

II. And whereas unneceſſary delay in accounting to the provincial treaſurer, for the revenue may be detrimental to the ſame, Be it therefore enacted by the authority aforeſaid, That the ſecretary of the province, ſhall uſe efficient means of compelling all perſons employed by or under him, as his agents or deputies, in receiving and collecting the duties impoſed by virtue of this act, or by virtue of any other act or acts of the parliament of this Province, to tranſmit to him, from time to time, without delay, all ſuch monies as they ſhall ſo receive and collect; and that the ſaid ſecretary of the Province, ſhall pay into the hands of the ſaid provincial treaſurer, all monies which he ſhall from time to time ſo receive, or otherwiſe collect as duties impoſed by this act, or by any other act or acts of the parliament of this Province, within one calendar month after he ſhall have received or collected the ſame, any act, law, or uſage to the contrary notwithſtanding.

Secretary to compel agents to account without delay.

Secretary to account to the treaſurer within one month.

CHAP. XII.

An ACT *to authorize the Lieutenant Governor to nominate and appoint certain Commiſſioners for the purpoſes therein mentioned.*

WHEREAS from the local ſituation of this Province it appears to be altogether impracticable to carry into effect that part of the provincial agreement entered into at *Montreal*, the twenty-eighth day of January laſt, between the commiſſioners in behalf of this Province, and the commiſſioners of the Province of *Lower Canada*, which relates to the impoſing of duties on articles coming into this Province from the United States of *America*, and to the taking of meaſures for enforcing the collection of ſuch duties; and from this circumſtance the agreement ſo entered into as aforeſaid may become void and of no effect; and whereas it is expedient that arrangements ſhould take place between this Province and the Province of *Lower Canada*, reſpecting the impoſing of duties, and allowing of drawbacks on goods paſſing from one Province into the other, and of and concerning any regulations, proviſions, matters and things which might regard the commerce, manufactures or produce of the ſaid Province, Be it therefore enacted by the King's Moſt Excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an act paſſed in the parliament of *Great Britain*, 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 effecual proviſion for the government of the Province of *Quebec* in *North America*, and to make further proviſion for the government of the ſaid Province," and by the authority of the ſame, That it ſhall and may be lawful for the governor, lieutenant governor, or perſon adminiſtering his Majeſty's government in this Province, from time to time by letters patent, under the great ſeal of the Province, to commiſſion, authorize, and empower, three able and diſcreet perſons, two of whom ſhall be a quorum, to treat, conſult, and agree with the perſons to be duly authorized for that purpoſe by a power to be granted by an act of the legiſlature of his Majeſty's Province of *Lower Canada*, of and concerning the eſtabliſhing ſuch regulations as may regard the collection of duties, or payment of drawbacks, to be impoſed or allowed on goods paſſing from one Province into the other, by the legiſlature of each Province reſpectively; and of and concerning any proportions to be received and paid of any equal duties already impoſed, or hereafter to be impoſed, by the ſaid legiſlatures reſpectively, on any article or commodity paſſing from one Province into the other; and of and concerning any regulations, proviſions, matters, and things which may regard the commerce, manufactures, or produce of the ſaid Province.

Preamble.

Governor to appoint three commiſſioners.

Their agreement invalid until confirmed by the Legislature.

II. *Provided always, and be it Enacted and declared,* That no regulation, provision, matter or thing so proposed, treated, consulted, or agreed shall have any other force or effect, or be carried any further into execution, until the same shall have been confirmed by the legislature of this Province.

CHAP. XIII.

An ACT *for the better regulating the Practice of the Law.*

Preamble.

BE it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the persons now admitted to practise in the law, and practising at the bar of any of his Majesty's courts of this Province, to form themselves into a society, to be called the *Law Society of Upper Canada*, as well for the establishing of order amongst themselves as for the purpose of securing to the Province and the profession a learned and honorable body, to assist their fellow subjects as occasion may require, and to support and maintain the constitution of the said Province.

Present practitioners incorporated into a law society.

The society to form rules.

II. *And be it further Enacted by the Authority aforesaid,* That the said society shall, and is hereby authorized to form a body of rules and regulations for its own government, under the inspection of the judges of the Province for the time being, as visitors of the said society, and to appoint the six senior members, or more, of the present practitioners, and the six senior members or more, for the time being, in all times to come (whereof his Majesty's Attorney General, and Solicitor General, for the time being, shall be, and be considered to be two) as governors or benchers of the said society, and also to appoint a librarian and a treasurer.

Place and time for the first meeting for adopting rules.

III. *And be it further Enacted,* That it shall and may be lawful for the said practitioners, or as many as can be called together (whereof his Majesty's Attorney General, and Solicitor General shall be two) to assemble at the town of Newark, in the county of Lincoln on the seventeenth day of July next ensuing the passing of this Act, for the purpose of framing and adopting such Rules and regulations as may be necessary for the immediate establishment of the said society, and its future welfare; and such rules and regulations as shall then and there be adopted, shall be openly read and entered in a book to be for that purpose provided, and having received the approbation of the said judges as visiors as aforesaid, shall be, and be considered to be the constitution of the said society, and binding upon all its members. Provided always, That it shall and may be lawful in time to come, to add such other rules and regulations, with the approbation of the judges as aforesaid, as may then and there be necessary.

Present practitioners may take one pupil.

IV. *And be it further Enacted,* That it shall and may be lawful to, and for every person now practising at the bar of any of his Majesty's courts, to take one pupil or clerk, for the purpose of instructing him in the knowledge of the laws, any law or ordinance to the contrary notwithstanding.

V. *And be it further Enacted,* That no person other than the present practitioners

tioners, and thoſe hereafter mentioned, ſhall be permitted to practiſe at the bar of any of his Majeſty's courts in this Province, unleſs ſuch perſon ſhall have been previouſly entered of, and admitted into the ſaid ſociety as a ſtudent of the laws, and ſhall have been ſtanding in the books of the ſaid ſociety, for and during the ſpace of five years, and ſhall have conformed himſelf to the rules and regulations of the ſaid ſociety, and ſhall have been duly called, and admitted to the practice of the law as a barriſter, according to the conſtitutions and eſtabliſhment thereof. *Provided always*, That it ſhall and may be lawful for any perſon having been duly admitted to practiſe at the bar of any of his Majeſty's courts in *England*, *Scotland*, or *Ireland*, or of any of his Majeſty's Provinces in *North America*, on producing ſufficient evidence thereof, and alſo on producing teſtimonials of good character and conduct to the ſatisfaction of the judges of the King's Bench, to be admitted to practiſe in this Province, ſo as ſuch perſon ſhall within one month from ſuch admiſſion, enter himſelf of the ſaid ſociety, and conform to all the rules and regulations thereof. Provided alſo, That nothing herein before contained ſhall affect, or be conſtrued to affect any perſon who ſhall, or may have been articled as a clerk before the paſſing of this act, with any perſon practiſing at the bar in any of the courts of this Province, authorized to take a clerk or clerks, and duly acting as a clerk accordingly; but the time which ſuch perſon ſhall have ſpent as ſuch clerk, ſhall be conſidered and taken to be, pro tanto, as a ſtanding in the books of the ſaid ſociety, and as a reaſonable and lawful deduction of ſo much of the ſaid term of five years, ſo that ſuch perſon ſhall likewiſe conform to the rules and regulations of the ſaid ſociety, in all matters and things thereunto appertaining.

None but members of the ſociety to practiſe except, &c.

Proviſion in favor of clerks articled before the paſſing of this act.

VI. *And be it further Enacted by the Authority aforeſaid*, That nothing in this act contained, ſhall prevent any perſon, who hath been regularly articled with any perſon in this Province, duly authorized to take a clerk, and ſhall have been ſtanding in the books of the ſociety aforeſaid, for and during the ſpace of three years, from acting merely as an attorney or ſolicitor in any of his Majeſty's courts of law or equity in this Province.

Further proviſion.

VII. *Provided nevertheleſs, and be it further Enacted*, That no perſon ſhall be admitted to practiſe in this Province, who ſhall not at the time of ſuch admiſſion have attained the full age of twenty-one years.

No perſon but of full age admitted to practiſe.

VIII. *And be it further Enacted by the Authority aforeſaid*, That a certain ordinance of the Province of *Quebec*, paſſed in the twenty-fifth year of his Majeſty's reign, intituled, "An Ordinance concerning advocates, attornies, ſolicitors and notaries, and for the more eaſy collection of his Majeſty's revenues," as far as it may relate to barriſters, advocates, attornies or ſolicitors, be, and the ſame is hereby repealed.

Ordinance of Quebec repealed.

CHAP. XIV.

An ACT *to obviate the Objections that might ariſe from a Clerical Error in ſome of his Majeſty's Letters Patent of Grant lately iſſued.*

Preamble.

WHEREAS it appears that a clerical error hath crept into a few of the deeds given by our Sovereign Lord the King to ſome of his ſubjects, by the inſertion of the word "clergyman" inſtead of the word "clergy" in that part of the letters patent that reſerves a proportion of one ſeventh of the crown lands, for the lands in each of the deeds granted, which error might lead to conſequences that it is neceſſary to obviate; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*,

conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That wherever the word "clergyman" ſhall or may occur in any one of his Majeſty's letters patent, the ſame ſhall be read, taken and underſtood to be, mean and ſignify "clergy," and ſhall have to all intents and purpoſes the ſame force and effect, tendency and operation towards eſtabliſhing, ſecuring and confirming the rights of the proteſtant clergy of this Province, in ſuch a quantity of the lands of the crown as ſhall and may amount to, and be in the proportion of one to ſeven of the lands in any ſuch deed granted, according to the form and effect of an Act paſſed in the parliament of *Great Britain*, in the thirty-firſt year of his Majeſty's reign, 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," and that every ſuch deed ſhall be to all intents and purpoſes as valid and effectual in ſecuring to the ſubject the lands thereby granted, and to his Majeſty all the rights, conditions, reſervations, limitations and reſtrictions, and to the ſaid clergy the rights aforeſaid, as if no ſuch clerical error had crept into it, but as if ſuch deed had been perfected in the word "clergy," where the rights of the church are intended to be ſecured, inſtead of the word "clergyman" wherever it occurs; any Act, Ordinance or Law to the contrary in any wiſe notwithſtanding.

The word clergy ſhall be intended to be meant by the word cleygyman in certain deeds of grant.

Such deeds to be valid in ſecuring the rights of the crown, of the clergy, & of the ſubject reſpectively.

CHAP. XV.

An ACT *to authorize the apprehending of Felons, and others, eſcaping from any of his Majeſty's provinces and governments in North America, into this province.*

Preamble.

WHEREAS it may happen that felons, and other malefactors, having committed crimes in ſome of his Majeſty's provinces and governments in *North America*, may eſcape into this province, and their offences thereby remain unpuniſhed for want of proviſion by law for apprehending ſuch offenders in this province, and tranſmitting them into the province in which their offences were committed: for remedy thereof, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, if any perſon or perſons againſt whom a warrant ſhall be iſſued by the chief Juſtice of the King's Bench, or any other magiſtrate having competent authority in any of his Majeſty's provinces or governments in *North America*, reſpectively, for any felony or other crime of a high nature, ſhall eſcape, come into, reſide, or be in any part of this Province, it ſhall and may be lawful for any juſtice of the peace of the diſtrict, county, city or place where ſuch perſon or perſons

Warrants iſſuing within his Majeſty's other governments in North America againſt felons eſcaping therefrom may be executed within this province, being duly endorſed.

ſons ſhall eſcape, come into, reſide or be, to indorſe his name on the ſaid warrant (due proof being firſt made of the hand writing of the magiſtrate iſſuing the ſame) which warrant ſo indorſed ſhall be a ſufficient authority to all perſons to whom ſuch warrant was originally directed, and alſo to all conſtables of the diſtrict, county, city, or place where ſuch warrant ſhall be ſo indorſed, to execute the ſame, by apprehending the perſon or perſons againſt whom ſuch warrant is granted, and to convey him, her or them into the province from which ſuch warrant originally was iſſued, to be dealt with according to law.

Security being previouſly given to indemnify the province againſt any expence, & to bring the offender ſo apprehended to trial.

II. *Provided nevertheleſs, and be it further Enacted by the Authority aforeſaid,* That before any ſuch warrant ſhall be ſo indorſed as aforeſaid, the perſon applying for ſuch indorſement ſhall enter into a recognizance with ſufficient ſureties for a ſum not leſs than fifty pounds lawful money of this Province, to indemnify this Province, and every part thereof, againſt any expence that may ariſe or accrue from the apprehenſion of ſuch offender, and alſo to bring, or cauſe the ſaid offender to be brought to trial; and the magiſtrate to whom ſuch application ſhall be made is hereby authorized to take ſuch recognizance.

CHAP. XVI.

An ACT *for making temporary proviſion for the Regulation of Trade between this Province and the United States of America by land or by inland navigation.*

Preamble.

WHEREAS it may be neceſſary for the complete operation of the treaty of amity, commerce and navigation, concluded between his Majeſty and the *United States* of *America*, and ſigned at *London*, in the year of our Lord one thouſand ſeven hundred and ninety-four, to repeal ſuch Acts or Ordinances as might be conſtrued to impede the free intercourſe between his Majeſty's ſubjects and the citizens of the *United States*, ſtipulated by the ſaid treaty, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, it ſhall and may be lawful for the governor, Lieutenant Governor, or perſon adminiſtering the government of this Province, by and with the advice and conſent of his Majeſty's Executive Council, by order, or orders, to be from time to time iſſued and publiſhed to ſuſpend the operation of the whole, or any part or parts of any act, or acts, or ordinance, or ordinances that may impede, or may be conſtrued to impede the free intercourſe ſtipulated by the ſaid treaty between his Majeſty's ſubjects, and the citizens of the *United States*.

Power of ſuſpending any act or ordinance, or parts thereof repugnant to the free intercourſe with the United States of America eſtabliſhed by the treaty of 1794.

II. *And be it further Enacted by the Authority aforeſaid,* That this Act ſhall continue, and be in force two years and no longer.

CHAP. XVII.

An ACT *for the better Diviſion of the County of Prince Edward into Townſhips.*

Preamble.

WHEREAS the inhabitants of the townſhips of *Maryſburg* and *Sophiaſburg*, in the county of *Prince Edward*, experience many difficulties from the uncommon length of the ſaid townſhips, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted

ſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That a townſhip ſhall be ſtruck off from the ſouthernmoſt parts of the townſhips of *Maryſburg* and *Sophiaſburg*, in form following:—To commence in *Maryſburg*, in the limit between the lots numbers eleven and twelve, ſouth ſide of the *Bay of Quinty*, to the eaſtward of a ſmall bay which leads to the carrying-place, to the *Eaſt-Lake*; then along the ſaid limit, ſouth ten degrees weſt, the depth of three conceſſions, more or leſs, until it interſects the limit between lots numbers twelve and thirteen in the ſecond conceſſion, north of *Black-River*; and then along the limit between the ſaid lots numbers twelve and thirteen, ſouth thirty-two degrees eaſt, to the rear of the firſt conceſſion from *Black-River*; then ſouth fifty eight degrees weſt along the line between the firſt and ſecond conceſſions, paſſing lot number thirty-two to a ſmall creek which empties itſelf into the *Eaſt-Lake*; then ſouth thirty-two degrees eaſt to *Lake Ontario*; then weſterly along the ſhore of the ſaid lake to the mouth of the *Weſt-Lake*; thence by the neareſt line to the limit between lot number one in *Ameliaſburg*, and lot number one in *Sophiaſburg*; then north twenty degrees weſt, the depth of two conceſſions; then north ſeventy degrees eaſt to the north eaſt angle of lot number ſixteen in the ſecond conceſſion, nearly; then north fifty-eight and one half degrees eaſt to the north-eaſt angle of a lot numbered thirty-nine, in the third conceſſion; then ſouth thirty-one and one half degrees eaſt to the rear of the ſecond conceſſion; then a ſmall diſtance by the moſt direct line to the northernmoſt angle of lot number ten in the ſecond conceſſion; then along the limit between the lots numbers ten and eleven ſouth ſixty-one degrees eaſt to the ſmall bay firſt mentioned, then following the ſhores of the ſaid bay and the *Bay of Quinty*, according to its different windings and courſes, to the place of beginning, which townſhip ſhall be under the ſame regulations and entitled to the ſame privileges as any other townſhip in this Province.

The ſouthernmoſt parts of Maryſburg and Sophiaſburg to be formed into a diſtinct townſhip.

Boundary lines thereof.

Regulations & privileges.

II. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the lieutenant governor, or perſon adminiſtering the government of this Province, on or before the firſt day of Auguſt next, by a proclamation, to declare the name of ſuch townſhip.

By whom the name of ſuch townſhip ſhall be declared.

III. *Provided always, and it is hereby further Enacted*, That ſuch alteration of the ſaid townſhips ſhall not impeach, or be conſtrued to impeach the legality of any exiſting commiſſion granted for the exerciſe of any authority or juriſdiction within the ſaid townſhips, or any of them, or to make void or otherwiſe affect any grant of land, or other legal proceeding within the limits of the ſaid townſhips, any law or uſage to the contrary notwithſtanding.

Such alteration in no wiſe to affect any exiſting commiſſion, legal proceeding, or grant of land.

THE

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

Paſſed in the Second Seſſion of the Second Provincial Parliament of Upper Canada, met at York on Tueſday the fifth day of June, in the Thirty eighth year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the fifth day of July following.

CHAP. I.

An ACT *to aſcertain and eſtabliſh on a permanent footing, the Boundary Lines of the different Townſhips of this Province.*

Recital. WHEREAS it is expedient and neceſſary, to aſcertain and eſtabliſh upon ſome permanent principle, the boundary lines of the different townſhips within this Province, and diſtinctly to preſerve them when ſo aſcertained and eſtabliſhed, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That ſtone monuments, or monuments of other durable materials, ſhall be placed at the ſeveral corners, governing points, or off-ſets of every townſhip that hath been ſurveyed, or may hereafter be ſurveyed; and alſo, at each end of the ſeveral conceſſion lines of ſuch townſhips. And that lines from the monuments ſo erected, or to be erected, be taken and conſidered as the permanent boundary lines of ſuch townſhips and conceſſions reſpectively.

Monuments to be placed at the corners, &c. of each townſhip and conceſſion.

Lines therefrom to be the permanent boundary lines of ſuch townſhip and conceſſion.

II. *And be it further Enacted by the Authority aforeſaid*, That the monuments above directed to be placed as aforementioned, ſhall be placed under the inſpection and order of the ſurveyor general of this Province.

To be under the inſpection & order of the ſurveyor general.

III. *And be it further Enacted by the Authority aforeſaid*, That the courſes and

Effect of ſuch boundary lines.

and diſtances of the ſaid boundary lines ſo aſcertained and eſtabliſhed, ſhall on all occaſions be, and be taken to be, the true courſes and diſtances of the boundary lines of the ſaid townſhips and conceſſions, whether the ſame do, or do not, on actual meaſurement, coincide with the courſes and diſtances in any letters patent of grant, or other inſtrument in reſpect of ſuch boundary lines mentioned and expreſſed.

Capital felony knowingly or wilfully to pull down, &c. ſuch monuments.

IV. *And be it further Enacted by the Authority aforeſaid*, That if any perſon or perſons ſhall knowingly and willfully pull down, deface, alter, or remove any ſuch monument ſo erected as aforeſaid, he, ſhe, or they, ſhall be adjudged guilty of felony, and ſhall ſuffer death without benefit of clergy.

How the ſurveyor general ſhall proceed.

V. *And be it further Enacted by the Authority aforeſaid*, That it ſhall not be neceſſary for the ſurveyor general to proceed to carry the proviſions of this act into execution, until an application for that purpoſe ſhall have been made to the governor, lieutenant governor, or perſon adminiſtering the government, by the magiſtrates of any diſtrict or county, not being part of a diſtrict, in quarter ſeſſions aſſembled, ſignifying that the erecting of ſuch monuments, and aſcertaining ſuch boundaries as aforeſaid, is neceſſary and expedient, for ſome particular townſhip or townſhips, within ſuch diſtrict or county.

Application to be made to the juſtices.

VI. *And be it further Enacted by the Authority aforeſaid*, That when, and ſo often, as application ſhall be made to the juſtices of the peace, in, and for any diſtrict, in quarter ſeſſions aſſembled, by thirty freeholders of any townſhip within ſuch diſtrict, to have monuments erected conformably to the intention of this act, it ſhall and may be lawful for the ſaid juſtices, and they are hereby authorized and required to form an eſtimate of the ſum of money which, in their judgment and diſcretion, ſhall ſeem requiſite to defray the charges of erecting ſuch monument, and to lay an equal aſſeſſment (proportionable thereto) upon each and every acre of land within ſuch townſhip; which aſſeſſment they ſhall cauſe to be raiſed and collected by a warrant under the hands and ſeals of any two or more of them, directed to the collectors of ſuch townſhip, and requiring them to raiſe and collect the ſaid aſſeſſment, in ſuch manner and by ſuch means as in other ſuch caſes by law directed and required, and to pay the ſame when ſo collected, into the hands of the treaſurer of the diſtrict, to anſwer the charges to be incurred by erecting ſuch monuments.

Expence how defrayed.

Proviſion with reſpect to perſons liable, who are not reſident in the townſhip.

VII. *And be it further Enacted by the Authority aforeſaid*, That when any perſon liable to pay his proportion and rate of ſuch aſſeſſment, ſhall be abſent from the townſhip, and ſhall not have taken means to anſwer the ſame to the ſaid collector within one year, from and after the date of the warrant for collecting the ſame, the land of ſuch abſentee ſhall be held liable and anſwerable for the payment of ſuch rate, with the lawful intereſt ariſing thereon; and when the ſame ſhall amount to twenty ſhillings; or upwards, upon each lot of one hundred acres of land, and ſo in proportion, for any number of acres, more or leſs, it ſhall and may be lawful for the treaſurer of the diſtrict in which ſuch lands ſhall lie and be ſituate, and he is hereby required to give notice of the ſame for ſix months in the *Upper Canada* Gazette, and if after the expiration of that time, the ſame ſhall not be paid, it ſhall and may be lawful for him to ſell ſo much thereof, after publicly advertiſing the ſame, as may be neceſſary to ſatisfy the ſaid arrears, and the neceſſary expences incurred by the proceedings, and to receive the monies ariſing from ſuch ſale, to and for the uſe of the townſhip.

CHAP. II.

CHAP. II.

An ACT *to repeal an Ordinance passed in the twenty-fifth year of the reign of his present Majesty, intituled, "An Ordinance concerning Advocates, Attornies, Solicitors, and Notaries, and for the more easy Collection of his Majesty's Revenues," as far as the same relates to Notaries.*

WHEREAS the provisions of an Ordinance passed in the twenty fifth year of the reign of his present Majesty, intituled, "An Ordinance concerning advocates, attornies, solicitors and notaries, and for the more easy collection of his Majesty's revenues," have been, so far as the same relates to notaries, found inconvenient and inapplicable to this Province, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That the same shall be, and hereby is, so far as it relates to notaries, repealed.

Ordinance so far as relates to notaries repealed.

CHAP. III.

An ACT *to repeal part of an Act passed in the thirty-seventh year of the reign of his Majesty, intituled, "An Act to extend the Jurisdiction and regulate the Proceedings of the District Court and Court of Requests," and to make further provision for the same.*

BE it enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the parliament of *Great Britain*, 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," and by the authority of the same, That so much of an Act passed in the thirty-seventh year of the reign of his Majesty, intituled, "An Act to extend the jurisdiction and regulate the proceedings of the district court, and court of requests," as enacts, that no milage be allowed for the service of the declaration or summons in the district court, or court of requests, be repealed.

Act taking away milage for serving process out of District Court repealed.

And be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for the clerk of the said district court, to demand and receive the sum of two shillings and six-pence, for each subpœna, and the sum of five shillings for each writ of execution.

Fees.

The four following Acts passed the Legislative Council and House of Assembly in the Thirty-eighth year of George the Third, but the Royal Assent was reserved for the signification of his Majesty's pleasure.

CHAP. IV.

An ACT *to extend the provisions of an Act passed in the second Session of the First Provincial Parliament of* Upper Canada, *intituled "an Act to confirm and make valid certain Marriages, heretofore contracted in the Country now comprized within the Province of* Upper Canada, *and to provide for the future Solemnization of Marriage within the same."*

[*The Royal Assent to this Act, was promulgated by Proclamation, bearing date the twenty-ninth day of December, in the year of our Lord one thousand seven hundred and ninety-eight, and thirty-ninth of his Majesty's Reign.*]

WHEREAS it hath been found expedient to extend the provisions of a certain Act passed in the thirty-third year of his Majesty's reign, intituled "An Act to confirm and make valid certain marriages heretofore contracted in the country now comprized within the Province of *Upper Canada*, and to provide for the future solemnization of marriage within the same," Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful to, and for the minister or clergyman of any congregation or religious community of persons, professing to be members of the Church of Scotland, or Lutherans, or Calvinists, who shall be authorized in manner hereafter directed, to celebrate the ceremony of matrimony, according to the rites of such church or religious community, between any two persons, neither of whom are under any legal disqualification to contract matrimony, and one of whom shall have been a member of such congregation or religious community, at least six months before the said marriage, any law or usage to the contrary notwithstanding.

Minister of Church of Scotland, &c. authorized to celebrate marriage.

II. *Provided nevertheless, and be it Enacted by the authority aforesaid*, That no person shall be taken, or deemed to be a minister or clergyman of any such congregation or religious community, within the intent and meaning of this Act, who shall not have been regularly ordained, constituted, or appointed, according to the rites and forms of such congregation or religious community, and unless he shall have appeared, or come before the justices of the peace assembled in quarter sessions, in the district in which he shall reside, when not less than six magistrates besides the chairman, shall be present, and shall have then with him at least seven respectable persons, members of the congregation or religious community to which he belongs, who shall declare him to be their minister or clergyman; and unless he shall produce proofs of his ordination, constitution, or appointment to that office, and unless he shall then and there take the Oath of Allegiance to his Majesty; when, if it shall appear to the majority of the justices then present, expedient and proper, they are hereby authorized to grant him a certificate under the Seal of the Court, and signed by the Chairman and Clerk of the Peace, (for which the said Clerk of the Peace shall be entitled to demand and receive the sum of five

Minister or Clergyman must have been ordained, and appear before six Magistrates in Quarter Sessions assembled, and take the Oath of Allegiance.

five ſhillings) certifying him to be the ſettled miniſter or clergyman of ſuch congregation or religious community; which certificate ſhall be in the following form:— Fee to the clerk.

BE IT REMEMBERED, that at the General Quarter Seſſions of the Peace, holden at the Town of in the County of in and for the Diſtrict, on the day of in the year of our Lord, before A. B. (and ſix others) Eſquire, and others, Juſtices of our Sovereign Lord the King, aſſigned to keep the Peace in the ſaid Diſtrict, &c. came C. D. of together with E. F. of (and ſix others, whoſe names and deſcriptions muſt be inſerted) members of a (Congregation) or (Community) of at in the County of in the ſaid Diſtrict. And the ſaid E. F. &c. being duly examined, ſatisfied the Court that the ſaid C. D. is the ſettled (Miniſter) or (Clergyman) (of the ſaid Congregation) or (Community) and was regularly ordained, conſtituted, and appointed thereto. G. H. Chairman. Form of certificate.

J. K. Clerk of the Peace.

III. *Provided nevertheleſs*, That no ſuch certificate ſhall be given by the ſaid Court of Quarter Seſſions as aforeſaid, unleſs the perſon applying for the ſame ſhall have given notice in writing, to the Clerk of the Peace, at, or before the General Quarter Seſſions immediately preceding that on which he ſhall apply for ſuch certificate; which notice in writing, the ſaid Clerk of the Peace ſhall read in open Court, and ſhall alſo fix up in ſome conſpicuous part of his office, within eight days after the ſame ſhall have been ſo read: for which ſervice he, the ſaid Clerk of the Peace, ſhall be entitled to demand and receive the ſum of five ſhillings and no more. No certificate to be given unleſs notice ſhall have been given, &c.

IV. *Provided alſo, and be it further Enacted by the Authority aforeſaid*, That no ſuch miniſter or clergyman ſhall, at any time, celebrate the ceremony of Matrimony between any two perſons as above deſcribed, unleſs he ſhall on three ſeveral Sundays before he ſhall celebrate the ſaid ceremony, openly, and with a loud voice in the church, chapel, meeting houſe, or other place of worſhip of ſuch congregation or religious community, either in ſome intermediate part of the ſervice, or immediately before it begins, or immediately after it is ended, declare his intention ſo to do; and ſhall at each time of making ſuch declaration, alſo declare the number of times for which he ſhall have made ſuch declaration reſpectively; or unleſs ſuch miniſter or clergyman, ſhall have been duly authorized by licence, under the hand and ſeal of the Governor, Lieutenant Governor, or perſon adminiſtering the government of the Province, to celebrate the ſaid ceremony between the two perſons therein named. No clergyman to celebrate matrimony unleſs, &c.

V. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to, and for the parties thus married, or either of them, to demand of the ſaid miniſter, or clergyman, and he is hereby authorized and required to give the ſame a certificate of ſuch marriage, which may be in the following form, viz.— Parties may demand certificate.

WHEREAS A. B. of and C. D. of were deſirous of intermarrying with each other, and have applied to me for that purpoſe, their intention ſo to do having been regularly proclaimed on three ſeveral Sundays, as is directed, or having preſented a licence, (as the caſe may be.) Now theſe are to certify, that I, E. F. miniſter of the community of at have this day married the ſaid A. B. and C. D. together, and they are become legally contracted to each other. As witneſs my hand at this day of in the year of our Lord. Form thereof.

In preſence of
G. H.
J. K.

Which certificate ſhall, and may be regiſtered by the Clerk of the Peace, in like manner as is directed in the aforeſaid Act, paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to confirm and make valid certain marriages heretofore contracted in the country now comprized within the Province of *Upper Canada*, and to provide for the future ſolemnization of marriage within the ſame." Certificate to be regiſtered.

VI. *And be it further Enacted by the Authority aforeſaid*, That all marriages which may have been celebrated ſince the paſſing of the ſaid Act of the thirty-third year of his Majeſty's reign, by any perſon who ſhall obtain ſuch certificate as aforeſaid, between any two perſons, either of whom now is, or then was, a member of any of the ſaid congregations or communities above named, ſhall be deemed good and valid, any law to the contrary notwithſtanding. All marriages celebrated ſince the paſſing 33d Geo. 3d, by ſuch perſon as, &c. valid.

CHAP. V.

An ACT for the better Diviſion of this Province.

[The Royal Aſſent to this Act was promulgated by Proclamation, bearing date January 1, in the year of our Lord 1800, and fortieth of his Majeſty's reign.]

Preamble. FOR the better diviſion of this Province, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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," and by the authority of the ſame, That the townſhips of *Lancaſter*, *Charlottenburg* and *Kenyon*, together with the tract of land claimed by the *St. Regis' Indians*, and ſuch of the iſlands in the *River Saint Lawrence* as are wholly, or in greater part oppoſite thereto, ſhall conſtitute and form the county of *Glengary*.

County of Glengary.

County of Stormont. II. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Cornwall*, *Oſnaburg*, *Finch* and *Roxburg*, together with ſuch of the iſlands in the *River Saint Lawrence* as are wholly, or in greater part oppoſite thereto, ſhall conſtitute and form the county of *Stormont*.

County of Dundas. III. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Williamſburg*, *Matilda*, *Mountain*, and *Wincheſter*, with ſuch of the iſlands in the *River Saint Lawrence* as are wholly, or in greater part oppoſite thereto, do together, conſtitute and form the county of *Dundas*.

Cou ty of Preſcott. IV. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Hawkeſbury*, *Longueil*, with the tract of land in its rear, *Alfred*, and *Plantagenet*, with ſuch of the iſlands in the *Ottawa River* as are wholly, or in greater part oppoſite thereto, ſhall conſtitute and form the county of *Preſcott*.

County of Ruſſell. V. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Clarence*, *Cumberland*, *Glouceſter*, *Oſgoode*, *Ruſſell*, and *Cambridge*, with ſuch of the iſlands in the *River Ottawa* as are wholly, or in greater part oppoſite thereto, ſhall conſtitute and form the county of *Ruſſell*.

Eaſtern Diſtrict. VI. *And be it further Enacted by the Authority aforeſaid*, That the counties of *Glengary*, *Stormont*, *Dundas*, *Preſcott*, and *Ruſſell*, do conſtitute and form the *Eaſtern Diſtrict*.

County of Grenville. VII. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Edwardſburg*, *Auguſta*, *Wolford*, *Oxford* on the *Rideau*, *Marlborough*, *Montague*, and *Gower*, called *North* and *South Gower*, together with ſuch of the iſlands in the *River Saint Lawreuce* as are wholly, or in greater part oppoſite thereto, ſhall conſtitute and form the county of *Grenville*.

County of Leeds. VIII. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Elizabeth-Town*, *Yonge*, (including what was formerly called *Eſcot*) *Lanſdown*, *Leeds*, *Croſby*, *Baſtard*, *Burgeſs*, *Elmſley*, and *Kitley*, together with ſuch of the iſlands in the *River Saint Lawrence* as are wholly, or in greater part oppoſite thereto, do conſtitute and fotm the county of *Leeds*.

County of Carleton. IX. *And be it further Enacted by the Authority aforeſaid*, That the townſhips of *Nepean*, with the tract of land to be hereafter laid out into townſhips, between *Nepean* and a line drawn north ſixteen degrees weſt from the north-weſt angle of the townſhip of *Croſby*, until it interſects the *Ottawa River*, with ſuch of the iſlands in the ſaid river as are wholly, or in grearer part oppoſite thereto, ſhall conſtitute and form the county of *Carleton*.

Diſtrict of Johnſtown. X. *And be it further Enacted by the Authority aforeſaid*, That the counties of *Grenville*, *Leeds*, and *Carleton*, do conſtitute and form the diſtrict of *Johnſtown*.

Townſhip of Pittſburg. XI. *And be it further Enacted by the Authority aforeſaid*, That *Howe Iſland*, and ſo much of the preſent county of *Ontario* as is wholly, or in greater part oppoſite to the townſhip of *Pittſburg*, be part of the ſaid townſhip of *Pittſburg*.

XII. And

Township of Wolfe Island.

XII. *And be it further Enacted by the Authority aforesaid*, That Wolfe Island and Gage Island, and so much of the said county of Ontario as is wholly, or in greater part opposite to the township of Kingston, do constitute and form the township of Wolfe Island.

Township of Amherst Island.

XIII. *And be it further Enacted by the Authority aforesaid*, That the residue of the said county of Ontario do constitute and form the township of Amherst Island.

County of Frontenac.

XIV. *And be it further Enacted by the Authority aforesaid*, That the townships of Pittsburg, Kingston, Loughborough, Portland, Hinchinbroke, Bedford, and Wolfe Island, do constitute and form the county of Frontenac.

Incorporated Counties of Lenox and Addington.

XV. *And be it further Enacted by the Authority aforesaid*, That the townships of Ernest Town, Fredericksburg, Adolphustown, Richmond, Camden (distinguished by being called Camden East), Amherst Island, and Sheffield, do constitute and form the incorporated counties of Lenox and Addington.

County of Hastings.

XVI. *And be it further Enacted by the Authority aforesaid*, That the townships of Sydney, Thurlow, the tract of land occupied by the Mohawks, Hungerford, Huntingdon, and Rawdon, do constitute and form the county of Hastings.

County of Prince Edward.

XVII. *And be it further Enacted by the Authority aforesaid*, That the townships of Ameliasburg, Hallowell, Sophiasburg, and Marysburg, with such of the islands in the Bay of Quinte and Lake Ontario, as are wholly, or in greater part opposite thereto, and such as were not formerly included in the county of Ontario, do constitute and form the county of Prince Edward.

Midland District.

XVIII. *And be it further Enacted by the Authority aforesaid*, That the counties of Frontenac, the incorporated counties of Lenox and Addington, Hastings, and Prince Edward, with all that tract of country which lies between the district of Johnstown and a line drawn north, sixteen degrees west from the north-west angle of the township of Rawdon, till it intersects the northern limits of the Province, together with all the islands in the Ottawa River, wholly, or in greater part opposite thereto, do constitute and form the Midland District.

County of Northumberland.

XIX. *And be it further Enacted by the Authority aforesaid*, That the townships of Murray, Cramahé, Haldimand, Hamilton, Elnwick, Percy, and Seymour, with the peninsula of Newcastle, do constitute and form the county of Northumberland.

County of Durham.

XX. *And be it further Enacted by the Authority aforesaid*, That the townships of Hope, Clarke, and Darlington, with all the tract of land hereafter to be laid out into townships, which lies to the southward of the small lakes above the Rice Lake, and the communication between them and between the eastern boundary of the township of Hope, and the western boundary of the township of Darlington, produced north sixteen degrees west, until they intersect either of the said lakes, or the communication between them, shall constitute and form the county of Durham.

East Riding of the County of Y..

XXI. *And be it further Enacted by the Authority aforesaid*, That the townships of Whitby, Pickering, Scarborough, York, including its peninsula, Etobicoke, Markham, Vaughan, King, Whitchurch, Uxbridge, Gwillimbury, and the tract of land hereafter to be laid out into townships, lying between the county of Durham and the Lake Simcoe, do constitute and form the East Riding of the county of York.

West Riding of the County of York.

XXII. *And be it further Enacted by the Authority aforesaid*, That the townships of Beverly and Flamborough, the latter divided into Flamborough East and West, so much of the tract of land upon the Grand River in the occupation of the Six Nation Indians, as lies to the northward of Dundas street, and all the land between the said tract and the East Riding of the county of York, with the reserved lands in the rear of the townships of Blenheim and Blandford, do constitute and form the West Riding of the county of York.

County of Simcoe.

XXIII. *And be it further Enacted by the Authority aforesaid*, That Matchedash, Gloucester, or Penetanguishine, together with Prince William Henry's Island, and all the land lying between the Midland District and a line produced due north from a certain fixed boundary (at the distance of about fifty miles north-west from the outlet of Burlington Bay) till it intersects the northern limits of the Province, do constitute and form the county of Simcoe.

Home District.

XXIV. *And be it further Enacted by the Authority aforesaid*, That the counties of Northumberland, Durham, York, and Simcoe, do constitute and form the Home District.

XXV. *Pro-*

District of Newcastle, to be eventually declared by proclamation.

XXV. *Provided always, and it is hereby further Enacted,* That when, and so soon as the said counties of Northumberland and Durham shall make it satisfactorily appear to the governor, lieutenant governor, or person administering the government of this Province, that there are one thousand souls within the said counties, and that six of the townships therein do hold town-meetings according to law, then the said counties, with all the land in their rear, confined between their extreme boundaries, produced north, fifteen degrees west, until they intersect the northern limits of the Province, shall, and are hereby declared to be a separate district, to be called the District of Newcastle. And the governor, lieutenant governor, or person administering the government of the Province, is hereby authorized upon such proof as aforesaid, to declare the same by proclamation any time within one year after the same shall be so established, as to him shall seem most fit.

Part of the Township of Glandford added to the Township of Binbrook.

XXVI. *And be it further Enacted by the Authority aforesaid,* That so much of the township of Glanford as is now comprehended between the southern boundary of the township of Binbrook, and the boundary of the Six Nations Indians land, be added to the said township of Binbrook, and become part thereof.

First Riding of the County of Lincoln.

XXVII. *And be it further Enacted by the Authority aforesaid,* That the townships of Clinton, Grimsby, Saltfleet, Barton, Ancaster, Glanford, Binbrook, Gainsborough, and Caistor, do constitute and form the First Riding of the county of Lincoln.

Second Riding of the County of Lincoln. The town and township of Newark therein, to be called the Town and Township of Niagara.

XXVIII. *And be it further Enacted by the Authority aforesaid,* That the townships of Newark, Grantham and Louth, do constitute and form the second Riding of the County of Lincoln. *Provided always,* That the town and township of Newark, now generally called West Niagara, be henceforth declared and called the town and township of Niagara respectively.

Third Riding of the County of Lincoln.

XXIX. *And be it further Enacted by the Authority aforesaid,* That the townships of Stamford, Thorold and Pelham, do constitute and form the third Riding of the County of Lincoln.

Fourth Riding of the County of Lincoln.

XXX. *And be it further Enacted by the Authority aforesaid,* That the townships of Bertie, Willoughby, Crowland, Humberstone, and Wainfleet, do constitute and form the fourth Riding of the County of Lincoln.

County of Haldimand.

XXXI. *And be it further Enacted by the Authority aforesaid,* That the tract of land on each side of the Grand River, now in the occupation of the Six Nation Indians, and laying to the southward and south-east of Dundas-street, do constitute and form the County of Haldimand.

District of Niagara.

XXXII. *And be it further Enacted by the Authority aforesaid,* That the said Counties of Lincoln and Haldimand, with such of the islands of this Province lying in the river Niagara, or Lake Erie, as are wholly or in greater part adjacent thereto, together with the Beach at the Head of Lake Ontario, between the outlet of Burlington Bay and the township of Saltfleet, and together with the promontory between the said Burlington Bay and Coats Paradise, do constitute and form the District of Niagara.

County of Norfolk.

XXXIII. *And be it further enacted by the authority aforesaid,* That the townships of Rainham, Walpole, Woodhouse, Charlotteville, Walsingham, Houghton, Middleton, Windham, and Townsend, together with Turkey Point, and promontory of Long Point, do constitute and form the County of Norfolk.

Addition to the Township of Burford.

XXXIV. *And be it further enacted by the authority aforesaid,* That the triangular tract of land heretofore called Townsend Gore, be added to the township of Burford, and to become part thereof.

County of Oxford.

XXXV. *And be it further enacted by the authority aforesaid,* That the townships of Burford, Norwich, Dereham, Oxford upon the Thames, Blandford, and Blenheim, do constitute and form the County of Oxford.

County of Middlesex.

XXXVI. *And be it further enacted by the authority aforesaid,* That the townships of London, Westminster, Dorchester, Yarmouth, Southwold, Dunwich, Aldborough, and Delaware, do constitute and form the County of Middlesex.

XXXVII. *And be it further enacted by the authority aforesaid,* That the Counties of Norfolk,

folk, Oxford and Middlesex with so much of this Province as lies to the Westward of the Home District, and the District of Niagara, to the Southward of Lake Huron, and between them and a line drawn due north from a fixed bounbary (where the easternmost limit of the township of Oxford interfects the River Thames) till it arrives at Lake Huron, do constitute and form the district of London. District of London.

XXXVIII. *And be it further enacted by the authority aforesaid,* That the townships of Dover, Chatham, Camden, distinguished by being called Camden West, the Moravian tract of land, called Orford, distinguished by Orford North and South, Howard, Harwich, Raleigh, Romney, Tilbury, divided into east and west, with the township on the river Sinclair, occupied by the Shawney Indians, together with the islands in the lakes Erie and Sinclair wholly or in greater part oppofite thereto, do constitute and form the County of Kent. County of Kent.

XXXIX. *And be it further enacted by the authority aforesaid,* That the townships of Rochester, Merfea, Gosfield, Maidstone, Sandwich, Colchester, Malden, and the tracts of land occupied by the Huron and other Indians upon the Strait, together with such of the islands as are in lakes Erie, Sinclair, or the Straits, do constitute and form the county of Essex. County of Essex.

XL. *And be it further enacted by the authority aforesaid,* That the Counties of Essex and Kent, together with so much of this Province as is not included within any other district thereof, do constitute and form the Western district. Western District.

XLI. *And be it further enacted by the authority aforesaid,* That this act nor any part thereof, shall take effect until from and after the fourteenth day of February next. Period, &c.

CHAP. VI.

An ACT *to amend part of an act passed in the thirty-fourth year of the reign of his Majesty, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeals," and also to amend and repeal part of an Act passed in the thirty-seventh year of the reign of his Majesty, intituled, "An Act for regulating the Practice of the Court of King's Bench," and to make further provision respecting the same.*

The Royal Assent to this Act was promulgated by Proclamation, bearing date January 2, in the year of our Lord 1800, and fortieth of his Majesty's reign.

WHEREAS by an Act passed in the thirty-fourth year of the reign of his Majesty, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeals," it is enacted, That no person shall be arrested or holden to bail upon any process issuing out of the Court of King's Bench in a civil suit, unless an affidavit be first made by the plaintiff, that the defendant is justly and truly indebted to him in a sum certain, which together with the account for which it became due, shall be specified, and also that the deponent verily believes, the defendant is about to leave the province, with an intent to defraud his creditors; and whereas many persons having contracted debts in this province, have fraudulently left the same before their creditors can have sufficient knowledge of their intention, so as safely to make the affidavit by the said Act required; for remedy thereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That in order to hold any person to bail in any civil suit in the said Court of King's Bench, it shall be sufficient that the said affidavit (which may be made by the plaintiff, his servant or agent) besides stating the cause of action in the manner in the said Act mentioned, do also state that the deponent is apprehensive that the defendant will leave the Province without paying his debts. Affidavit for holding to bail.

II. And for the more effectual prevention of such fraudulent practices as aforesaid, *be it enacted by the authority aforesaid,* That in case the plaintiff in any action now pending Co. ad resp. may be sued out after action brought.

ing, or hereafter to be brought in the said Court, his servant, or agent shall, at any time after action brought, and before final judgment, be apprehensive that the defendant will leave the province without paying his debts, it shall and may be lawful to and for the said plaintiff, his servant, or agent, having made and filed such affidavit as aforesaid, to sue out a writ of capias ad respondendum, and to cause the said defendant to be thereupon arrested and holden to bail, which bail if the said writ shall have been sued out after appearance made, shall be bail to the action.

Without, &c.

III. *Provided nevertheless, and be it enacted by the authority aforesaid,* That the suing out of such writ shall not be taken or construed in any manner to affect any proceedings theretofore had in the said action; but the same shall continue in like manner as if the said writ had been sued out at the commencement thereof, any law to the contrary notwithstanding.

Condition of the recognisance.

IV. *And be it further enacted by the authority aforesaid,* That the condition of every recognizance of bail to the action shall be such, that the cognizors thereof shall not become liable, unless the defendant shall leave the Province, without having paid the debt for which such action shall have been brought.

Affidavit on taking out Ca. Sa.

V. *And be it further enacted by the authority aforesaid,* That no writ of Capias ad satisfaciendum, shall issue in any action now pending, or hereafter to be brought in the said Court, unless an affidavit be first made and filed by the plaintiff, his servant, or agent, in the manner herein above directed, with respect to holding to bail, that he is apprehensive that the defendant will leave the Province without paying his debts, or that he hath reason to believe, that the defendant hath secreted or removed his effects, or hath made some secret and fraudulent conveyance thereof, in order to prevent the same from being taken in execution.

VI. *Provided nevertheless, and be it further enacted by the authority aforesaid,* That nothing herein contained shall be construed or taken in any manner to affect the right of the bail to take and surrender the defendant in discharge of themselves.

Provisional arrest of debtors by warrant from any justice of the peace.

VII. *And be it further enacted by the authority aforesaid,* That in case the plaintiff in any action now pending, or hereafter to be brought in the said court, his servant or agent, at any time before or after final judgment, and before the debt for which such action shall have been brought, is paid or satisfied, shall be apprehensive that the defendant will leave the Province without paying his debts, and that he may leave the same before he can be arrested and holden to bail, or taken in execution as aforesaid, it shall and may be lawful to and for any of his Majesty's justices of the peace, upon oath thereof made before him, by the said plaintiff, his servant, or agent, to issue his warrant, and cause the said defendant to be arrested and detained, until he can be served with the proper process of the said court: *Provided nevertheless,* That the time of such detention shall in no case exceed the space of eight days.

Recital 37 Geo. 3d cap. 4.

VIII. *And be it further Enacted by the Authority aforesaid,* That so much of an Act passed in the thirty-seventh year of the reign of his present Majesty, intituled, "An Act for regulating the practice of the court of King's bench," as enacts, that the parties may plead to issue in the office of the clerk of the crown and pleas of this Province, in and for the several districts thereof, and also that every Monday in the course of the year, except Easter Monday and Christmas Day, in case it shall happen on a Monday, shall be a return day for the return of writs issuing out of the said court of King's bench, and also that the plaintiff shall cause the defendant to be served with the writ of summons, and that no milage shall be allowed for the same, shall be, and the same is hereby repealed.

Repeal thereof in respect to pleading in the District offices, the return of Writs out of term; and milage.

But original process and writs of ca. sa. to issue still out of the District offices.

IX. *Provided nevertheless, and be it further Enacted by the Authority aforesaid,* That the said office of the clerk of the crown and pleas shall be an office for issuing the original process of the said court, and also for issuing writs of capias ad satisfaciendum.

CHAP. VII.

An ACT *to alter the method of performing Statute Duty on the Highways and Roads within this Province.*

[The Royal Aſſent to this Act was promulgated by Proclamation, bearing date January 1, in the year of our Lord 1800, and fortieth of his Majeſty's Reign.]

Preamble.

Recital 33d Geo. 3, chap. 4.

WHEREAS by an Act paſſed in the thirty-third year of his Majeſty's reign, it is enacted, that the highways and roads in and through every pariſh, townſhip, or reputed townſhip, ſhall be cleared, repaired and maintained by the inhabitants thereof; and whereas it is expedient that the proportions of labour to be performed under the ſaid ſtatute ſhould be altered, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the firſt day of March next, ſo much of the aforementioned Act as enacts that every perſon being a houſholder, or freeholder, ſhall be obliged to work on the roads for and during any ſpace of time not exceeding twelve days, ſhall be, and the ſame is hereby repealed.

Repeal of ſo much thereof as reſpects the extent of yearly ſtatute labour on the highways.

II. *And be it further Enacted by the Authority aforeſaid*, That from and after the day aforeſaid, every inhabitant houſholder included, or inſerted in or upon the aſſeſſment roll of any pariſh, townſhip, reputed townſhip or place, ſhall (in proportion to the eſtimate of his real and perſonal property thereon) be taken, rated and held liable to work on the highways and roads in each and every year, as follows: that is to ſay, if his property be rated at not more than one hundred pounds, then his proportion of labor on the highways ſhall not exceed ſix days; if at more than one hundred pounds and not more than two hundred pounds, eight days; if at more than two hundred and not more than three hundred pounds, ten days; if at more than three hundred pounds, twelve days.

Rates of yearly ſtatute labour in future thereon.

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THE STATUTES OF HIS MAJESTY's PROVINCE OF Upper Canada.

Paſſed in the Third Seſſion of the Second Provincial Parliament of Upper Canada, met at York, on Wedneſday the twelfth day of June, in the thirty-ninth year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the twenty-ninth day of the ſame month.

CHAP. I.

An ACT *to revive and continue an Act, paſſed in the firſt ſeſſion of this preſent Parliament, intituled,* "*An Act for the better ſecuring the Province againſt the King's Enemies.*"

WHEREAS an Act paſſed in the firſt ſeſſion of this preſent Parliament, intituled, "An Act for the better ſecuring of the Province againſt the King's enemies," hath now expired, and whereas it is expedient that the ſame ſhould be revived and continued for ſome time longer; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the ſaid Act ſhall be, and the ſame is hereby revived and continued; for and during the ſpace of two years, and from thence to the end of the then next ſeſſion of Parliament.

Act revived and continued for two years, &c.

CHAP. II.

An ACT *to continue an Act, intituled,* "*An Act for ſecuring the Titles to Lands in this Province.*"

WHEREAS an Act paſſed in the thirty-ſeventh year of the reign of his preſent Majeſty, intituled, "An Act for ſecuring the titles to lands in this

this Province," will expire on the firſt day of June next; and whereas many of the inhabitants of this Province have not yet been, nor will be able to participate in the benefits of the ſaid Act before the time limited for the expiration thereof: Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the ſaid Act be, and it hereby is continued for and during the further term of two years, and from thence to the end of the then next ſeſſion of the Provincial Parliament.

Act continued for two years, &c.

CHAP. III.

An ACT *to provide for the Education and Support of Orphan Children.*

WHEREAS it is expedient to provide for the education and ſupport of orphan children, or children who may be deſerted by their parents; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That when the father and mother of any infant child ſhall die, or ſhall abandon their infant child or children, it ſhall and may be lawful for the Town Wardens of any Townſhip where ſuch child or children ſhall be, by and with the approbation and conſent of two of his Majeſty's Juſtices of the Peace, to bind the ſaid child or children as apprentices, until he, ſhe, or they, ſhall have attained the age of twenty one years in the caſe of males, and eighteen in the caſe of females; and an indenture to this effect, under their hands and ſeals, and counter-ſigned by two Juſtices of the Peace, ſhall be good and valid in law.

Town Wardens, with approbation of two juſtices, may bind orphan or abandoned infant children.

II. *And be it further Enacted by the Authority aforeſaid*, That when the father of any infant child or children, ſhall abandon and leave ſuch infant child or children with the mother, it ſhall and may be lawful for the mother in ſuch caſe, by and with the approbation of two of his Majeſty's Juſtices of the Peace, to bind ſuch child, or children, as apprentices, until he, ſhe, or they ſhall have attained the age of twenty-one years in the caſe of males, and eighteen in the caſe of females; and an indenture to that effect, under her hand and ſeal, and counter-ſigned by two Juſtices, ſhall be good and valid in law.

The like power given to the mother, when the father abandons his infant children.

III. *Provided always, and be it further Enacted by the Authority aforeſaid*, That when the relations of any orphan, or abandoned infant child, or children, are able and willing to ſupport and bring them up; then, and in ſuch caſe, it ſhall not be in the power of the Town Wardens to apprentice ſuch child or children.

Exception.

IV. *Provided alſo, and be it further Enacted by the Authority aforeſaid*, That no infant child, or children, having attained the age of fourteen years, ſhall be liable to be apprenticed as aforeſaid, unleſs he, ſhe, or they conſent thereto.

Further exception.

CHAP. IV.

An ACT *to enable Perſons holding the Office of Regiſter, to be Elected Members of the Houſe of Aſſembly.*

WHEREAS by the ſixteenth clauſe of an Act paſſed in the thirty-fifth year of his Majeſty's reign, intituled, "An Act for the public regiſtering of deeds, conveyances, wills, and other incumbrances which ſhall be made, or may affect any lands, tenements, or hereditaments within this Province," it is declared and enacted, that "no Member of the Houſe of Aſſembly thereafter to be choſen, during the time that he is ſuch Member, ſhall be capable of being appointed Regiſter, or of executing by himſelf, or any other perſon, the ſaid office, or have, take, or receive any fee or other profit whatſoever, for, or in reſpect thereof; nor ſhall any Regiſter or his Deputy for the time being, be capable of being thereafter choſen a Member to ſerve in the Aſſembly of this Province." Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the ſaid ſixteenth clauſe of the ſaid above recited Act, ſhall be, and the ſame is hereby repealed.

16th clauſe of 35th Geo. 3d repealed.

II. *Provided always, and be it further Enacted by the Authority aforeſaid*, That if any Member of the Aſſembly ſhall, at any time hereafter, accept the office of Regiſter of any county or riding, his ſeat therein ſhall be, and is hereby declared to be vacated thereupon.

Any Member of the Aſſembly accepting the office of Regiſter, his ſeat to be vacated.

Provided alſo nevertheleſs, That ſuch appointment ſhall be no bar or obſtruction to the re-election into the Aſſembly, of the perſon ſo accepting and holding the ſame.

But no bar to his re-election.

CHAP. V.

An ACT *to ratify, approve and confirm the Proviſional Agreement made and entered into by Commiſſioners on the part of this Province, and Commiſſioners on the part of the Province of Lower Canada.*

WHEREAS by articles of proviſional agreement, made and entered into at Montreal, on the twenty-eighth day of January, in the thirty-ſeventh year of his preſent Majeſty's reign, by commiſſioners nominated and appointed on behalf of the Province of Upper Canada, under, and by virtue of an Act of the Legiſlature thereof, paſſed in the thirty-ſixth year of his Majeſty's reign, intituled, "An Act to authorize the Lieutenant Governor to nominate and appoint certain commiſſioners, for the purpoſes therein mentioned, and commiſſioners nominated and appointed in behalf of the Province of Lower Canada, by an Act of the Provincial Parliament thereof, paſſed in the thirty-ſixth year of his Majeſty's reign, intituled, "An Act for appointing commiſſioners on behalf of this Province, to treat further with commiſſioners on behalf of the Province of Upper Canada," for the purpoſes therein mentioned, it was agreed in manner and form following, that is to ſay:—

Recital of the Proviſional Agreement made in 1797.

I. That

I. That the Legiſlature of Upper Canada will not impoſe any duties whatever on any goods, wares, or merchandizes, imported or brought into Lower Canada, and paſſing into Upper Canada; nor on any article the growth, produce, or manufacture of Lower Canada, paſſing into Upper Canada: but will allow and admit the Legiſlature of Lower Canada to impoſe and levy ſuch reaſonable duties on ſuch goods, wares, and merchandizes, and ſuch articles aforeſaid, as they may judge expedient, for the purpoſe of raiſing a revenue within the province of Lower Canada.

II. In conſideration of the Legiſlature of Upper Canada relinquiſhing the impoſition of duties as aforeſaid, the Legiſlature of Lower Canada will allow a juſt proportion of the duties impoſed by them, to be paid to Upper Canada; and in order to aſcertain ſuch proportion, a fit and proper perſon ſhall be appointed, at the joint and equal expence of both Provinces, to reſide at Coteau du Lac, as inſpector, for the purpoſe of demanding and receiving accounts of articles ſubject to duties contained in boats, canoes, and carriages paſſing by that place.

III. That it ſhall be enacted by the Legiſlature of Lower Canada, that the ſaid inſpector ſhall have authority to ſtop at Coteau du Lac, before paſſing the locks upwards, all boats and canoes, until that there ſhall be delivered to him a written account, ſigned by the perſon or perſons who ſhall have furniſhed the lading of any ſuch boat or canoe, or brigade thereof, or who ſhall have diſpatched, or who ſhall accompany the ſame, ſpecifying the quantities of ſuch articles ſubject to duties in Lower Canada, as are contained in ſuch boat or canoe, or brigade thereof; and if the ſaid inſpector ſhall have reaſon to believe that any ſuch account is falſe, (whether the ſame be of ſuch articles paſſing from Lower Canada, or coming from Upper Canada) he ſhall have authority at any time within three months after the ſame ſhall have been received, (either by himſelf, or any other perſon that he may ſee fit to appoint by letter, for that purpoſe) to require ſuch account to be verified on oath before a juſtice of the peace, by the perſon or perſons who ſigned ſuch account; and every perſon when ſo required, who ſhall refuſe to verify on oath any ſuch account by him ſigned, ſhall for every ſuch offence, forfeit and pay the ſum of ten pounds, with coſts of ſuit.

IV. That all carriages paſſing Coteau du Lac upwards, ſhall ſtop at the office of the inſpector, under the penalty of ten ſhillings on every driver thereof, who ſhall refuſe, or neglect ſo to ſtop; and if not provided with a written account, ſigned as aforeſaid, of the articles ſubject to duties, contained in ſuch carriage or carriages, or not being able to give a verbal account of ſuch articles, to the ſatisfaction of the inſpector, he, the ſaid inſpector, ſhall have authority to ſearch and examine the ladings thereof, in order to aſcertain the ſame. Provided always, that no account ſhall be neceſſary to be given of any articles ſubject to duty, being *bona fide* for the uſe of the driver or paſſengers in any ſuch carriage, during his or their journey.

V. That the ſaid inſpector ſhall enter into a book, to be by him provided and kept for the purpoſe, all ſuch accounts as he ſhall or may be furniſhed with, as before preſcribed, together with ſuch as he ſhall take from actual examinations, in caſes where carriages ſhall not be provided therewith, and therefrom twice in every year, that is to ſay, on the thirtieth day of June, and on the thirty-firſt day of December, he ſhall make up and certify upon oath before a juſtice of the peace, two general accounts of the quantities of all ſuch articles ſo paſſing Coteau du Lac upwards, on which duties ſhall have been impoſed by the Legiſla-

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ture of Lower Canada, and ſhall tranſmit one of ſuch certified general accounts to the Governor, Lieutenant Governor, or perſon adminiſtering the government of Lower Canada, and the other thereof to the Governor, Lieutenant Governor or perſon adminiſtering the government of Upper Canada.

VI. That the Legiſlature of Upper Canada ſhall impoſe and levy upon all articles ſubject to duties in Lower Canada, which ſhall be brought into Upper Canada from the United States of America, without paſſing through Lower Canada, duties equal to thoſe that are, or ſhall be impoſed and levied on ſimilar articles when brought from the United States into Lower Canada, and that the Legiſlature of Upper Canada ſhall take the moſt effectual meaſures that their local ſituation will admit of, for enforcing the collection of ſuch duties.

VII. That every boat, canoe, or carriage, coming from Upper Canada into Lower Canada, upon, or along the River Saint Lawrence, if containing articles ſubject to duties at the port of Quebec, or within the province of Lower Canada, ſhall ſtop at Coteau du Lac, until that there ſhall be delivered to the ſaid inſpector, an account thereof in the manner and form before preſcribed, for ſuch articles paſſing upwards; and the conductor, or perſon, or perſons having charge of any ſuch boat or canoe, or brigade thereof, having on board any ſuch articles from Upper Canada, (knowing the ſame) who ſhall refuſe, or neglect ſo to ſtop, and to notify the ſame to the ſaid inſpector, ſhall forfeit and pay the ſum of forty ſhillings; and the driver of any carriage loaded in whole, or in part, with any ſuch articles from Upper Canada, who ſhall refuſe, or neglect to ſtop at the Office of the ſaid inſpector for delivery of ſuch accounts, or for examination and ſearch, if not provided therewith, ſhall forfeit and pay the ſum of ten ſhillings, with coſts of ſuit, in each of the ſaid caſes.

VIII. That the ſaid inſpector ſhall alſo enter in the book before mentioned, the accounts of ſuch articles ſubject to duties, as ſhall be brought from Upper Canada, and twice in every year, at the periods before mentioned, ſhall make out, certify on oath, and tranſmit as before directed, two general accounts of the quantities thereof, and the amount of duties on the ſame, being deducted from the amount of duties on the quantities contained in the aforeſaid general accounts, of ſuch articles paſſing from Lower into Upper Canada by Coteau du Lac, the reſidue ſhall (after deducting therefrom the charges of levying and collecting in Lower Canada the duties compoſing ſuch reſidue) be the amount which Upper Canada ſhall be entitled to receive as their proportion of duties impoſed, levied, and collected in Lower Canada.

IX. That the Legiſlature of Lower Canada will not impoſe any duties upon any article paſſing from Upper Canada into Lower Canada, and that they ſhall take immediate ſteps for carrying into effect the regulations ſtipulated in theſe articles.

X. That the penalties herein mentioned, ſhall be recovered and applied in ſuch manner and form as ſhall be preſcribed by the Legiſlature of each Province.

XI. That this agreement ſhall continue, and be in force for four years, and no longer, to be reckoned from the firſt day of March next; and that the aforeſaid inſpector to reſide at Coteau du Lac under this agreement, ſhall, for the firſt two years, be appointed by the Governor, Lieutenant Governor, or Perſon adminiſtering the Government of Lower Canada; and for the remaining

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two years, by the Governor, Lieutenant Governor, or Perſon adminiſtering the government of Upper Canada.

Recital of the proviſional agreement made in 1799.

AND WHEREAS by other articles of Proviſional Agreement made and entered into at Montreal, on the eleventh day of February, now laſt paſt, by Commiſſioners on the part of the ſaid Province of Lower Canada, appointed by an Act of the Provincial Parliament thereof, paſſed in the thirty-eighth year of his Majeſty's reign, intituled, "An Act to repeal an Act paſſed in thirty-ſixth year of the reign of his preſent Majeſty, and for appointing other commiſſioners on behalf of this Province, to treat with commiſſioners on behalf of the Province of Upper Canada, for the purpoſes therein mentioned," and commiſſioners on the part of Upper Canada, appointed under the authority of an Act of the Provincial Parliament thereof, paſſed in the thirty-ſeventh year of his Majeſty's reign, intituled, "An Act to authorize the Lieutenant Governor to nominate and appoint certain commiſſioners for the purpoſes therein mentioned," it was further agreed in manner and form following, that is to ſay—

I. That the Legiſlature of Upper Canada may ratify the aforeſaid Proviſional Agreements, with a condition ſuſpending the operation and execution of the ſixth Article thereof, ſo long as the Government of the United States of America do not lay duties on goods, wares and merchandizes paſſing from the Province of Upper Canada into the territories of the ſaid States.

II. That the Legiſlature of the Province of Lower Canada will allow, and pay to the Province of Upper Canada, ſuch juſt proportion of the duties impoſed and levied by the Legiſlature of Lower Canada, as the aforeſaid Province of Upper Canada would have had a right to claim if the aforeſaid Articles of Agreement had been ratified and confirmed by the Legiſlature of the Province of Upper Canada.

III. That this agreement ſhall continue and be in force until the firſt day of March, one thouſand eight hundred and one, and no longer.

Therefore may it pleaſe your moſt excellent Majeſty,

Confirmation of both agreements.

That it may be enacted, and it is hereby enacted by the King's moſt excellent Majeſty, by, and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of Upper Canada, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of Great Britain, 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," and by the authority of the ſame, That the ſaid two Proviſional Agreements are hereby ſeverally approved, ratified and confirmed.

Provided nevertheleſs, That the operation and execution of the ſixth Article of the ſaid firſt above-mentioned Proviſional Agreement ſhall be, and the ſame is hereby ſuſpended, ſo long as the government of the *United States* of *America* ſhall not lay duties on goods, wares, and merchandizes paſſing from this Province into the territories of the ſaid States, and no longer.

Provincial Treaſurer authorized to receive the monies which may become due to this Province under this act.

II. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the Provincial Treaſurer of this Province, for the time being, (when, and as often as the ſame may, from time to time become due and payable) to aſk for, demand and receive, to and for the uſes of this Province, of and from all and every the perſon or perſons who now are, or at any time hereafter

hereafter may be nominated and appointed on the part, and in behalf of the Province of *Lower Canada*, for the payment thereof, all and every sum and sums of money which now is, or are become due and payable, or hereafter may become due and payable from the said Province of *Lower Canada* to this Province, pursuant and by virtue of this Act, and of the Articles of Provisional Agreement herein before ratified, approved, and confirmed; which said Provincial Treasurer for the time being, is hereby authorized and empowered by himself, or by any person or persons whom he may thereunto duly authorize, to grant sufficient receipts and discharges for the same; which said receipts and discharges shall be taken, and held to be binding and obligatory on this Province, to all intents and purposes whatsoever, and to be a full and sufficient acquittal of, and from all and every sum and sums of money which in such receipts and discharges shall respectively be contained.

Provincial Treasurer's receipts binding on this Province.

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

Passed in the Fourth Session of the Second Provincial Parliament of Upper Canada, met at York, on Monday the second day of June, in the fortieth year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the fourth day of July following.

CHAP. I.

An ACT *for the further introduction of the Criminal Law of England into this Province, and for the more effectual Punishment of certain Offenders.*

Recital.

WHEREAS the Criminal Law of *England* was by an Act of the Parliament of *Great Britain*, 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*, introduced and established as the Criminal Law of this Province: And whereas divers amendments and improvements have since been made in the same by the mother country, which it is expedient to introduce and adopt in this Province; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, intituled, "An Act to repeal

peal 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," and by the authority of the ſame, That the Criminal Law of *England*, as it ſtood on the ſeventeenth day of September, in the year of our Lord one thouſand ſeven hundred and ninety-two, ſhall be, and the ſame is hereby declared to be the Criminal Law of this Province.

The Criminal Law of England introduced as it ſtood on the 17th day of Sept. 1792.

II. *Provided nevertheleſs*, That nothing herein contained ſhall be taken or conſtrued to vary, repeal, or in any manner to affect any Ordinance of the late Province of *Quebec*, which may have been made ſince the ſaid fourteenth year of his Majeſty's reign.

Saving of ordinances made ſince the 14th Geo. 3.

III. And whereas the puniſhment of burning in the hand, when any perſon is convicted of felony within the Benefit of Clergy, is often diſregarded and ineffectual, and ſometimes may fix a laſting mark of diſgrace and infamy on offenders, who might otherwiſe become good ſubjects and profitable members of the community; Be it therefore enacted by the authority aforeſaid, That from and after the paſſing of this Act, when any perſon ſhall be lawfully convicted of any felony within the Benefit of Clergy, for which he or ſhe is liable by law to be burned or marked in the hand, it ſhall and may be lawful for the Court before which any perſon ſhall be ſo convicted, or any Court holden for the ſame place with the like authority, if ſuch Court ſhall think fit, inſtead of ſuch burning or marking, to impoſe upon ſuch offender ſuch a moderate pecuniary fine as to the Court in its diſcretion ſhall ſeem meet; or otherwiſe it ſhall be lawful, inſtead of ſuch burning or marking, in any of the caſes aforeſaid, except in the caſe of manſlaughter, to order and adjudge, that ſuch offender ſhall be once, or oftener, but not more than three times, either publicly or privately whipt; ſuch private whipping to be inflicted in the preſence of not leſs than two perſons beſides the offender and the officer who inflicts the ſame; and in caſe of female offenders, in the preſence of females only; and ſuch fine or whipping ſo impoſed or inflicted inſtead of ſuch burning or marking, ſhall have the like effects and conſequences to the party on whom the ſame, or either ſhall be ſo impoſed or inflicted, with reſpect to the diſcharge from the ſame or other felonies, or any reſtitution to his or her eſtates, capacities and credits, as if he or ſhe had been burned or marked as aforeſaid.

When any perſon is convicted of any felony for which he is liable to be burnt in the hand, the Court may, inſtead of ſuch burning, impoſe on him a moderate fine, or except in caſe of Manſlaughter, order him to be whipped.

IV. *Provided always, and be it further Enacted by the Authority aforeſaid*, That nothing in this Act contained, ſhall abridge, or deprive any Court of the powers now veſted in it by law, of detaining and keeping in priſon, for any time not exceeding one year, or of committing to the houſe of correction, or public work-houſe, to be kept to hard labor, for any time not exceeding one year, or of committing to the houſe of correction, for any time not leſs than ſix months, or exceeding two years, any ſuch offender as aforeſaid; but that ſuch offender may, if ſuch Court ſhall think fit, after ſuch burning or marking, or after ſuch whipping or fine as ſhall by virtue of this preſent Act be inflicted or impoſed inſtead thereof, be ſo detained or committed, and with ſuch accumulated puniſhment, in caſe of eſcape from ſuch houſe of correction or work-houſe, as if this Act had never been made.

This act not to abridge the powers veſted in the ſaid Courts of imprisoning offenders.

V. And whereas ſo much of the ſaid criminal law of England, as relates to the tranſportation of certain offenders to places beyond the ſeas, is either inapplicable to this province, or cannot be carried into execution without great and

Puniſhment ſubſtituted for tranſportation.

manifeſt inconvenience, *Be it Enacted by the Authority aforeſaid*, That when any perſon ſhall be convicted of any crime, for which he, or ſhe, ſhall be liable by law to be tranſported, the court before which ſuch perſon ſhall be ſo convicted, or any court holden for the ſame place with the like authority, inſtead of the ſentence of tranſportation, ſhall order and adjudge, that ſuch perſon be baniſhed from this province, for and during the ſame number of years, or term for which he, or ſhe would be liable by law to be tranſported, and do remove him, or herſelf therefrom within a ſpace of time to be then fixed and declared by the court, and which ſhall, in no inſtance, be leſs than two days nor more than eight, including the day on which ſuch ſentence of baniſhment ſhall be paſſed.

Proviſions in caſe of return from baniſhment or being found at large in the Province before the period is expired.

VI. *And be it further Enacted by the Authority aforeſaid*, That if any perſon on whom ſuch ſentence of baniſhment ſhall have been paſſed as aforeſaid, or to whom his Majeſty, his heirs or ſucceſſors, ſhall hereafter be graciouſly pleaſed to extend the Royal mercy upon condition of his, or her, leaving the province for any term of years, or for life, ſhall be found at large in any part thereof without ſome lawful cauſe, after the time within which he, or ſhe, ſhall have been ſo baniſhed, or ſhall have ſo conſented to leave the province, and before the expiration of the term for which he, or ſhe, ſhall have been ſo baniſhed, or ſhall have ſo conſented to leave the ſame, every ſuch offender being thereof lawfully convicted, ſhall ſuffer death as in caſes of felony, without benefit of Clergy; and ſuch offender may be tried either before Juſtices of Aſſize, Oyer and Terminer or Gaol Delivery, for the diſtrict, county, or place where ſuch offender ſhall be apprehended and taken, or where he, or ſhe, may have received ſuch ſentence of baniſhment; and the Clerk of the Crown, Clerk of the Peace or other officer, having the cuſtody of the records where ſuch ſentence of baniſhment ſhall have been pronounced, or the Regiſter of the Province in the caſe of ſuch conditional pardon as ſhall at the requeſt of any perſon on his Majeſty's behalf, and without fee or reward, make out and give a certificate in writing, ſigned by him the ſaid Clerk of the Crown, Clerk of the Peace or other officer, or by the ſaid Regiſter, reſpectively, containing the effect and ſubſtance, omitting the formal part of every indictment and conviction of ſuch offender, and of the ſentence of baniſhment, or of ſuch conditional pardon reſpectively, to the Juſtices of Aſſize, Oyer and Terminer and Gaol Delivery, where ſuch offender ſhall be indicted, which certificate ſhall be ſufficient proof of ſuch conviction and ſentence of baniſhment, or of ſuch conditional pardon reſpectively.

Not to reſtrain the power of his Majeſty to pardon.

VII. *Provided nevertheleſs*, That nothing herein contained ſhall be conſtrued in any manner to reſtrain, or prevent his Majeſty, his heirs or ſucceſſors, to grant an abſolute and unconditional pardon to ſuch offender, and to allow of his, or her return to this Province.

CHAP. II.

An ACT *for the Regulation of Special Juries.*

BE it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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

vince of *Quebec* in *North America*, and to make further proviſion for the government of the ſaid Province," and by the authority of the ſame, That from and after the firſt day of March next, no perſon ſhall be returned by the Sheriff to ſerve on any ſpecial jury, who ſhall not be aſſeſſed, and pay aſſeſſments on the ſum of three hundred pounds, or upwards.

CHAP. III.

An ACT *for the more equal Repreſentation of the Commons of this Province in Parliament, and for the better defining the Qualification of Electors.*

FOR the better repreſentation of the Commons of this Province in Parliament, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the end of the preſent Parliament, the repreſentation of the Commons of this Province in the Houſe of Aſſembly, ſhall be in manner and form following, that is to ſay :—

Repreſentation.

The Counties of Glengary and Preſcott, ſhall be together repreſented by two Members.

The Counties of Stormont and Ruſſell, ſhall together be repreſented by one Member.

The Counties of Dundas, Grenville, Leeds, Frontenac, and Prince Edward, be each repreſented by one Member.

The incorporated counties of Lenox and Addington, be together repreſented by one Member.

The Counties of Haſtings and Northumberland, be together repreſented by one Member.

The County of Durham, the Eaſt Riding of the County of York, and the County of Simcoe, be together repreſented by one Member.

The Weſt Riding of the County of York, the firſt Riding of the County of Lincoln, and the County of Haldimand, be together repreſented by two Members.

The ſecond, third and fourth Ridings of the County of Lincoln, be together repreſented by two Members.

The Counties of Oxford, Middleſex, and Norfolk, ſhall together be repreſented by one Member.

The County of Kent, ſhall be repreſented by one Member.

The County of Eſſex, ſhall be repreſented by two Members.

Qualification of Electors.

II. *And be it further Enacted by the Authority aforeſaid*, That no perſon ſhall be conſidered as qualified to vote, or ſhall vote at the enſuing election for a Member to repreſent the Commons of this Province in Provincial Parliament, who ſhall have ſworn allegiance to any foreign ſtate; or have been a ſtated reſident in the dominions of the ſame, unleſs ſuch perſon ſhall have been previouſly and bona fide reſident in this Province, or in ſome other of the dominions of his Majeſty, for, and during the term of four years then next preceding, and ſhall have taken the oath of allegiance to his Majeſty; and that on any future election, no ſuch perſon or perſons ſhall vote as aforeſaid, until

he, or they ſhall have been previouſly and bona fide reſident in this Province or in ſome other of his Majeſty's dominions, for, and during the term of ſeven years next preceding, and ſhall have taken the oath of allegiance to his Majeſty.

CHAP. IV.

An ACT *for the ſummary Conviction of Perſons ſelling Spiritous Liquor by Retail without Licence.*

FOR the ſummary conviction of perſons ſelling ſpirituous liquor by retail without licence, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the legiſlative council and aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the parliament of *Great Britain*, 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;" and by the authority of the ſame, That if any perſon or perſons ſhall, directly, or indirectly, ſell any wine, brandy, rum, or other ſpirituous liquor by retail without licence for that purpoſe previouſly obtained, ſuch perſon or perſons having, if reſident in the diſtrict in which the offence ſhall have been committed, been ſummoned to appear before any three or more of his Majeſty's juſtices of the peace, who are hereby authorized and impowered to hear and determine the matter, and being lawfully convicted thereof, by the oath of one credible witneſs, ſhall forfeit and pay the ſum of twenty pounds of lawful money of this Province, to be levied with coſts of ſuit, by diſtreſs and ſale of the goods and chattels of ſuch offender or offenders, one half of which penalty ſhall be paid to the perſon or perſons informing, and the other half into the hands of his Majeſty's Receiver General, to and for the public uſes of this Province; and in default of the ſaid offender or offenders, having goods and chattels, from which the ſaid penalty may be raiſed, it ſhall and may be lawful for the ſaid juſtices to commit him, her, or them to the gaol of the diſtrict in which the offence ſhall have been committed, for and during the ſpace of three calendar months.

Manner of conviction when offender reſides in the diſtrict.

II. *And be it further Enacted by the Authority aforeſaid*, That if any ſuch offender or offenders, be not uſually reſident within the diſtrict in which the offence ſhall have been committed, it ſhall and may be lawful to, and for any one of his Majeſty's juſtices of the peace, in and for the diſtrict in which the offence ſhall have been committed, upon information upon oath made before him, to iſſue his warrant for apprehending ſuch offender or offenders, and to oblige him, her, or them, to enter into recognizances with one or more ſufficient ſureties for his, her, or their appearance at ſuch time and place as ſhall be appointed for the hearing of the ſaid complaint, or in default thereof, to commit him, her, or them for ſafe cuſtody to the common gaol of the diſtrict, until the ſaid complaint ſhall have been finally heard and determined.

Manner of conviction when offender does not reſide within the diſtrict.

III. *And be it further Enacted by the Authority aforeſaid*, That from and after the fifth day of April now next enſuing, it ſhall not be lawful to or for any ſhop keeper licenced to ſell wine, brandy, rum, and other ſpirituous liquors by retail, to ſell or vend the ſame, in any leſs quantity, or by any ſmaller meaſure than one quart; and if any ſhop-keeper or ſhop keepers ſhall from and after the ſaid fifth day of April ſell, or vend any wine, brandy, rum, or other ſpirituous liquors, in leſs quantity, or by ſmaller meaſure, than one quart, he, ſhe, or they ſhall, for ſuch offence, forfeit and pay the ſum of twenty pounds, to be levied in manner and form herein before mentioned, and the monies ariſing therefrom, ſhall be divided and applied in like manner and to the ſame uſes as herein before is directed.

No ſhop-keeper to ſell leſs than one quart of wine, brandy, &c.

IV. *Provided alſo, and be it further Enacted by the Authority aforeſaid*, That no information, or complaint, ſhall be received under this Act, if more than ſix calendar months have elapſed ſince the time of the offence committed.

Limitation of proſecution.

CHAP. V.

An Act to Revive and Continue an Act intituled, "An Act to Provide for the Appointment of Returning Officers for the ſeveral Counties within this Province."

WHEREAS an Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to provide for the appointment of Returning Officers for the ſeveral

Counties within this Province," was limited to be and continue in force for, and during the ſpace of ſeven years; and whereas the time limited in the ſaid Act is now expired, and it being neceſſary that the ſame ſhould be revived and continued, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That the ſaid Act of the thirty-third year of his Majeſty's reign, and every part thereof, and every clauſe, matter and thing therein contained, are by the preſent Act revived and continued for, and during the ſpace of eight years, and no longer.

CHAP. VI.

An ACT *for making a Temporary Proviſion for the Regulation of Trade between this Province and the United States of America, by Land or by Inland Navigation.*

WHEREAS it may be expedient to carry into effect that part of the Treaty of Amity, Commerce and Navigation, concluded between his Majeſty and the *United States of America*, and ſigned at *London* in the year of our Lord one thouſand ſeven hundred and ninety-four, which authorizes the levying and collecting the ſame duties upon articles imported into this Province from the *United States of America* by land or inland navigation, as the ſame would be liable to if imported by the port of *Quebec*, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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;" and by the authority of the ſame, That it ſhall and may be lawful for the Governor, Lieutenant Governor, or perſon adminiſtering the government of this Province, by and with the advice and conſent of his Majeſty's Executive Council, by order, or orders to be from time to time iſſued, and publiſhed, to eſtabliſh ſuch ports of entry, and to make ſuch other regulations for the purpoſes aforeſaid, and for carrying on the trade by land or inland navigation, between the people and territories of his Majeſty in this Province, and the people and territories of the *United States of America*, as may be neceſſary, in order to carry ſuch parts of the ſaid Treaty into effect, and all, and every ſuch orders and regulations ſhall have the ſame force, effect, and validity, as if the ſame were herein particularly repeated and enacted; any law, ſtatute, cuſtom, or uſage to the contrary notwithſtanding.

Governor in Council may eſtabliſh ports of entry, and make regulations for carrying on the trade between this Province and the United States.

II. *And be it further Enacted by the Authority aforeſaid*, That this Act ſhall be in force until the firſt day of June, which will be in the year of our Lord one thouſand eight hundred and one, and from thence to the end of the next ſeſſion of the Provincial Parliament, and no longer.

THE

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

PASSED IN THE FIRST SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF UPPER CANADA, MET AT YORK, ON THE TWENTY-EIGHTH DAY OF MAY, IN THE FORTY-FIRST YEAR OF THE REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE NINTH DAY OF JULY FOLLOWING.

CHAP. I.

An ACT *to continue an Act passed in the thirty-seventh year of his Majesty's reign, intituled, "An Act for the better securing the Province against the King's Enemies."*

WHEREAS an Act of the Provincial Parliament, passed in the thirty-seventh year of his Majesty's reign, and revived and continued by an Act passed in the thirty-ninth year of the same reign, intituled, "An Act for the better securing this Province against the King's enemies," will expire at the end of the present session, and whereas it is expedient that the same should continue for some time longer, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That the said Act shall be, and is hereby continued for and during the space of two years, and from thence to the end of the then next session of Parliament.

CHAP. II.

An ACT *for the further Regulation of the Militia of this Province, and for the more effectual Punishment of Offenders against the Militia Laws.*

Preamble.

WHEREAS in many instances the fines, forfeitures and penalties imposed by the several Acts of the Legislature of this Province, for the regulation of the Militia, cannot be recovered by reason that the offenders have not wherewithal to answer the conviction, or that they conceal their goods and effects to evade the seizure thereof; whereby the intention of those Laws is frustrated, for remedy thereof, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted

conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That when any perſon ſhall have been convicted of any offence againſt any of thoſe laws, which offence is not now puniſhable by impriſonment, and ſhall refuſe to pay the fine, forfeiture or penalty impoſed on ſuch offender, it ſhall and may be lawful to and for the Juſtice or Juſtices before whom ſuch perſon ſhall have been convicted to commit ſuch offender to the common Gaol of the Diſtrict, until he ſhall pay and ſatisfy ſuch fine, forfeiture or penalty, together with the reaſonable charges attending ſuch conviction.

Offenders againſt the Militia Laws refuſing to pay the fine may be impriſoned.

Provided nevertheleſs, That no perſon or perſons ſo committed ſhall in any caſe be detained in cuſtody longer than the ſpace of one calendar month.

II. *And be it further Enacted by the Authority aforeſaid*, That no perſons who have been diſcharged from his Majeſty's ſervice as non-commiſſioned officers ſhall be obliged to ſerve in any ſtation in the Militia of this Province inferior to that which they held in his Majeſty's ſervice, unleſs having been non-commiſſioned officers in the ſaid Militia, they may have been reduced according to law.

Of non-commiſſioned officers diſcharged from the King's ſervice.

III. *And be it further Enacted*, That the exemption extended to the ſeveral perſons ſtated in the twenty-firſt clauſe of an Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act for the better regulation of the Militia of this Province" ſhall extend to all Militia Officers having ſerved under and by virtue of a commiſſion from any of his Majeſty's Governors or Lieutenant Governors in America.

Further exemption from ſerving in the Militia.

CHAP. III.

An ACT *to empower the Commiſſioners of the Peace for the Midland Diſtrict, in their Court of General Quarter Seſſions aſſembled, to eſtabliſh and regulate a Market in and for the Town of Kingſton in the ſaid Diſtrict.*

WHEREAS it is expedient for the convenience of the inhabitants of the Midland Diſtrict, that a Market ſhould be eſtabliſhed at *Kingſton* in ſaid Diſtrict, and that the times and place for holding ſuch Market ſhould be aſcertained, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, it ſhall and may be lawful for the Commiſſioners of the Peace in the Midland Diſtrict in their Court of General Quarter Seſſions aſſembled, and they are hereby authorized and empowered to fix upon and eſtabliſh ſome convenient place in the Town of *Kingſton* as a Market, where butchers meat, butter, eggs, poultry, fiſh, and vegetables ſhall be expoſed to ſale; and to appoint ſuch days and hours for that purpoſe, and to make ſuch other orders and regulations relative thereto, as they ſhall deem expedient.

Market erected at Kingſton.

Orders and regulations.

II. *And be it further Enacted by the Authority aforeſaid*, That the ſaid Commiſſioners ſhall be, and they are hereby authorized and empowered to impoſe ſuch fines, not exceeding twenty ſhillings, for any offence committed againſt ſuch rules and regulations as to them in their diſcretion ſhall ſeem requiſite and proper.

Fines for offences.

III. *And be it further Enacted by the Authority aforeſaid*, That all ſuch orders, rules, and regulations ſhall be publiſhed by cauſing a copy of them to be affixed in the moſt public place in every Townſhip in the ſaid Diſtrict, and at the doors of the Church and Court Houſe of the ſaid Town of *Kingſton*, and that ſuch orders, rules and regulations ſhall not be in force until three weeks after ſuch publication.

Publication of rules, orders, and regulations.

IV. *And be it further Enacted by the Authority aforeſaid*, That if any perſon ſhall tranſgreſs the orders and regulations ſo made by the ſaid Commiſſioners, ſuch perſon ſhall for every ſuch tranſgreſſion, forfeit the ſum, which in every ſuch order, rule and regulation

Mode of levying and application of fines.

lation ſhall be ſpecified to be recovered by information before any one Commiſſioner of the Peace upon the oath of one credible witneſs, and to be levied by warrant under the hand and ſeal of ſuch Commiſſioner, upon the goods and chattels of ſuch offender, and that one moiety of the ſum ſo levied ſhall go to the informer, the other moiety ſhall be paid into the hands of his Majeſty's Receiver General, to and for the uſe of his Majeſty, his heirs and ſucceſſors, for the public uſes of this Province, and towards the ſupport of the Government thereof, to be accounted for to his Majeſty through the Commiſſioners of his Treaſury for the time being, in ſuch manner and form as it ſhall pleaſe his Majeſty to direct.

CHAP. IV.

A BILL to ratify and confirm certain Proviſional Articles of Agreement entered into by the reſpective Commiſſioners of this Province and Lower Canada, at Quebec, on the ſecond day of February, one thouſand eight hundred and one, relative to duties, and for carrying the ſame into effect, and alſo to continue an Act paſſed in the thirty-ninth year of his Majeſty's reign.

MOST GRACIOUS SOVEREIGN,

Proviſional agreement recited.

WHEREAS articles of Proviſional Agreement were made and entered into at Quebec on the ſecond day of February in the forty-firſt year of your Majeſty's reign, by the Commiſſioners nominated and appointed on behalf of the Province of Upper Canada by his Excellency Peter Hunter Eſquire, Lieutenant Governor of the ſaid Province, by commiſſion bearing date the twenty-third day of July, in the fortieth year of your Majeſty's reign, in purſuance of, and under the authority of an Act paſſed in the thirty-ſixth year of your Majeſty's reign, intituled, "An Act to authorize the Lieutenant Governor to nominate and appoint Commiſſioners for the purpoſes therein mentioned," and the Commiſſioners nominated and appointed on behalf of the Province of Lower Canada, by an Act of the Provincial Parliament thereof, paſſed in the fortieth year of your Majeſty's reign, intituled, "An Act for appointing Commiſſioners to treat with Commiſſioners appointed, or to be appointed by the Province of Upper Canada, for the purpoſes therein mentioned," which articles are as follows:

ARTICLE I. The ſaid Commiſſioners having met and communicated to each other their reſpective powers and authorities, and having taken into conſideration, and maturely deliberated upon the objects of their appointment, have unanimouſly agreed, that as an agreement entered into on the twenty-eighth day of January, one thouſand ſeven hundred and ninety-ſeven, and another agreement entered into on the eleventh day of February, one thouſand ſeven hundred and ninety-eight, between the Commiſſioners of Upper and Lower Canada, for the purpoſes therein mentioned, will both expire and be at an end on the firſt day of March of this preſent year, which agreement of the twenty-eighth day of January, one thouſand ſeven hundred and ninety-ſeven, it is at preſent expedient to continue.

ARTICLE II. It is therefore agreed by and between the before mentioned Commiſſioners on the part of *Lower Canada*, and the before mentioned Commiſſioners on the part of *Upper Canada*, that the before mentioned agreement of the twenty-eighth day of January, one thouſand ſeven hundred and ninety ſeven be, and the ſame is hereby continued, and all and every article and ſtipulation ſhall be, and is hereby declared to be binding and obligatory on the reſpective Legiſlatures of *Upper* and *Lower Canada*, as if the ſame had been inſerted verbatim in this agreement.

ARTICLE III. It is alſo agreed between the Commiſſioners aforeſaid, that as the Province of *Upper Canada* is not entitled to a return of duties on goods paſſing into *Upper Canada* by the *Coteau du Lac*, the property of perſons reſiding in *Lower Canada*, and trading the ſame without the limits of *Upper Canada*, but as the amount of ſuch return of duties is not at preſent an object of importance, and is in a great meaſure compenſated by the drawbacks which ought to be allowed to *Upper Canada* upon goods paſſing into that Province by the *Ottawa River*, the property of perſons reſiding in the ſame:

ARTICLE IV. It is therefore further agreed, that for the term of this agreement, the Province of *Lower Canada* and the Province of *Upper Canada*, do reſpectively relinquiſh any claim to the ſaid return of duties and drawbacks.

ARTICLE V.

ARTICLE V. And it being aſcertained and known, that the States of *America* have proceeded to levy the duties upon articles paſſing from *Upper Canada* into their territories, which by Treaty with *Great Britain* they are authorized to do; The Commiſſioners of *Upper Canada* do ſtipulate expreſſly that the ſixth article of the agreement hereby continued ſhall be carried into effect with all poſſible diligence.

ARTICLE VI. And finally, this agreement ſhall commence on the firſt day of March now next enſuing, and ſhall be binding and continue in full force and effect until the firſt day of March, which will be in the year of our Lord one thouſand eight hundred and five, and no longer.

And confirmed. May it therefore pleaſe your moſt excellent Majeſty that it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That all and every part of the proviſional agreement herein before particularly mentioned, and every clauſe thereof be ratified, approved, and confirmed, and the ſaid proviſional agreement and every clauſe thereof is ratified, approved, and confirmed accordingly.

39th Geo. III. chap. 5, revived and continued. II. And whereas an Act was paſſed in the thirty-ninth year of your Majeſty's reign, intituled, "An Act to ratify, approve, and confirm the proviſional agreement made and entered into by Commiſſioners on the part of this Province and Commiſſioners on the part of the Province of *Lower Canada*," which Act was at an end on the firſt day of March, in the year of our Lord one thouſand eight hundred and one.

And whereas it is expedient and neceſſary to renew and continue the ſaid Act (except ſo much of the ſame as relates to the ſuſpending the operation of the ſixth article of the therein recited proviſional agreement), Be it therefore enacted by the authority aforeſaid, That all and every clauſe (excepting as is herein before mentioned), obligation, penalty, fine, matter and thing in the ſaid Act contained, be renewed, continued, and enacted, and the ſame is hereby renewed, continued, and enacted accordingly, and all and every clauſe, obligation, penalty, fine, matter and thing therein contained (except as is herein before mentioned), ſhall have the ſame effect, force and validity, for and during the term of this Act, as if the ſame were herein particularly repeated and ſet forth.

Provincial Treaſurer. III. *And be it further Enacted by the Authority aforeſaid*, That the Provincial Treaſurer ſhall, and he is hereby authorized and required to receive the monies which now are, or hereafter may become due and payable from the ſaid Province of *Lower Canada* to this Province, purſuant and by virtue of this Act, and of the articles of proviſional agreement herein before ratified and confirmed, in the ſame manner as he is directed by the above recited Act hereby renewed and continued as aforeſaid.

Continuance of this Act. IV. *And be it further Enacted by the Authority aforeſaid*, That this Act ſhall have force and effect from the firſt day of March, one thouſand eight hundred and one, and ſhall continue to be in force to the firſt day of March, one thouſand eight hundred and five, and no longer.

CHAP. V.

An ACT *for granting to his Majeſty, his heirs and ſucceſſors, to and for the uſes of this Province the like Duties on goods and merchandize brought into this Province from the* United States *of* America *as are now paid on goods and merchandize imported from* Great Britain *and other places.*

MOST GRACIOUS SOVEREIGN,

Preamble. WE your Majeſty's moſt dutiful and loyal ſubjects the Commons of the Province of *Upper Canada* in Parliament aſſembled, for the uſes of this Province, have freely and voluntarily reſolved to give and grant to your Majeſty, your heirs and ſucceſſors, the ſeveral duties herein after mentioned, and in ſuch manner and form as herein after expreſſed. And therefore moſt humbly beſeech your Majeſty that it may be enact-

ed, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act there shall be raised, levied, collected and paid into the hands of the Receiver General, as Treasurer of this Province, to and for the use of your Majesty, your heirs and successors, and to and for the uses of this Province, the like duties on all goods and merchandize that may be imported or brought into this Province from any part, port, or place, of or belonging to the citizens of the *United States* of *America*, as are now levied and collected under and by virtue of any Act of the Parliament of *Great Britain*, or levied and collected in the Province of *Lower Canada*, to and for the use and benefit of this Province, under and by virtue of any provisional agreement in force between the Provinces of *Upper Canada* and *Lower Canada*, and under and by virtue of any Act or Acts passed in the said Province of *Lower Canada*, imposing a duty on goods and merchandize brought into that Province from *Great Britain*, or parts beyond the seas.

Like duties to be levied on goods and merchandize imported into this Province from the United States of America, as are now levied on goods or merchandize in the Province of Lower Canada for the use of this Province.

II. *And be it further Enacted by the Authority aforesaid*, That for the better collecting the said duties, the ports of *Cornwall*, *Johnstown*, *Newcastle*, *York*, *Kingston*, *Niagara*, *Queenston*, *Fort Erie Passage*, *Turkey Point*, *Amherstburgh and Sandwich*, shall be, and they are hereby declared to be ports of entry and clearance for all goods and merchandize brought into this Province (not being goods entirely prohibited) and for the payment of all duties liable to be paid on all goods and merchandize brought into this Province as aforesaid, which payments shall be made at the respective ports, or some or one of them, in such manner and wise as the Governor, Lieutenant Governor, or person administering the Government of this Province, by and with the advice and consent of the Executive Council thereof, shall for the better collecting of the same, order and direct: And that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government, under his hand and seal at arms, to nominate and appoint one or more collector or collectors at the said ports of entry and clearance, which said collector or collectors, or his or their deputy or deputies, shall make his or their report to the said Governor, Lieutenant Governor, or person administering the Government, of all entries made at his or their respective port or ports, and account to the Receiver General of the said Province for all duties and seizures levied, paid and made under and by virtue of any Act or Acts of the Parliament of *Great Britain*, or under and by authority of this Act, at or before the expiration of every six months.

Ports of entry and clearance.

Governor, &c. to appoint Collectors.

Their duties. To report all entries, and account.

III. *And be it Enacted by the Authority aforesaid*, That the said collectors shall, and they are hereby authorized to appoint one or more deputy or deputies in their several districts, for the the better carrying into effect the provisions of this Act.

Collectors may appoint deputies.

IV. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of the said Province, by and with the advice and consent of the said Executive Council, to allow to each collector fifty pounds per centum on the amount of duties so collected, until the same amount to one hundred pounds per annum and no more, and the said collector or collectors shall give security by two sureties in five hundred pounds each, and himself in one thousand pounds, for the due performance of his office.

Allowance to Collectors.

Security to be given by them.

V. *And be it further Enacted by the Authority aforesaid*, That all goods and merchandize, whose importation into this Province is not, or shall not be entirely prohibited, may freely, for the purposes of commerce, be carried, brought and imported into the same from the said *United States* in manner aforesaid, by his Majesty's subjects and by the Citizens of the said *States*, upon the payment of the several and respective duties due and payable by his Majesty's subjects on the importation of the like goods and merchandize from *Great Britain* or other parts beyond the seas. Provided always, That nothing in this Act shall extend, or be construed to extend, to permit or allow any

Terms of intercourse between this Province and the United States.

any ſuch goods or merchandize to be unladen at any place or places, or at any other times or hours than is or are herein after mentioned or allowed.

Peltries. VI. *And be it Enacted by the Authority aforeſaid*, That no duty of entry ſhall be payable or levied or demanded by any collector or deputy on any peltries brought by land or inland navigation into this Province, and that Indians paſſing or repaſſing with their proper goods and effects of whatever nature, ſhall not be liable to pay for ſuch goods and effects any impoſt or duty whatever, unleſs the ſame ſhall be goods in bales or other packages unuſual among Indians for their neceſſary uſe, which ſhall not be conſidered as goods belonging bona fide to Indians, or as goods intitled to the foregoing exemption from duties and impoſts; that no higher or other tolls or rates of ferriage than what are or ſhall be payable by his Majeſty's ſubjects, ſhall be demanded by any perſon or perſons of the citizens of the United States of America, and that no duties under and by virtue of this Act ſhall be payable on any goods which ſhall be merely carried over any of the portages, or carrying places within this Province, for the purpoſe of being immediately reimbarked and carried to ſome other place or places. Provided nevertheleſs, that the laſt mentioned exemption from duty ſhall extend only to ſuch goods as are carried in the uſual and direct road acroſs ſuch portages or carrying places, and are not attempted to be in any manner ſold or exchanged during their paſſage acroſs the ſame.

Indians.

Ferriage.

Goods in tranſitu.

Entry of veſſels, boats, &c. VII. *And be it further Enacted by the Authority aforeſaid*, That it ſhall not be lawful to make entry of any veſſel, boat, raft or carriage, or of any cargo or load, or of any goods, wares or merchandize imported into this Province from the ſaid United States, except at the ports of entry aforeſaid. And that the collector or collectors, duputy or deputies of and for the ſaid ports, ſhall attend every day except Sundays, Chriſtmas-day and Good Friday, at a certain place to be named for each port, for the diſcharge of the duties of their reſpective offices, between the hours of nine and twelve of the clock in the forenoon, and three and ſix of the clock in the afternoon, from the firſt day of May to the firſt day of October, and from ten to three from the firſt day of October to the laſt day of April.

Attendance of Collectors.

Manner of proceeding on arrival of veſſels boats, &c. VIII. *And be it further Enacted by the Authority aforeſaid*, That all veſſels, boats, rafts and carriages of what kind or nature ſoever containing goods, wares or merchandize, paſſing by or into the ſaid ports or either of them, ſhall be reported to the collector or his deputy, and be ſubject to viſitation and ſearch by the collector or his deputy eſtabliſhed at any of the ſaid ports, and that upon the arrival of any veſſel, boat, raft or carriage from any port or place in the ſaid United States at any of the ports aforeſaid, the maſter or other perſon duly authorized, having the charge or command of ſuch veſſel, boat, raft or carriage, ſhall forthwith repair to the place ſo to be named as aforeſaid at each of the ſaid ports, and ſhall there report to the collector or his deputy, the arrival of the ſaid veſſel, boat, raft or carriage, together with the burthen, cargo or load of ſuch veſſel, boat raft or carriage, whether in packages or ſtowed looſe, of the particular marks and numbers of each package, and the place or places, perſon or perſons to and for which or whom they are reſpectively conſigned or intended: and the ſaid maſter or perſon having the charge or the command of any ſuch veſſel, boat, raft or carriage, ſhall further declare that no part of the cargo or load of ſuch veſſel, boat, raft or carriage, ſince the departure of ſuch veſſel, boat, raft or carriage, from the port or place in the ſaid United States, from which the ſaid veſſel, boat, raft or carriage ſhall have ſailed or departed has been landed or unloaded, or otherwiſe removed, except as he ſhall then ſpecify together with the cauſe, time, place and manner, which ſaid reports and declarations reſpectively ſhall be made in writing, ſigned by the party making the ſame, and ſhall be atteſted by his oath, or affirmation if one of the perſons called Quakers, which the ſaid collector or his deputy is

hereby authorized and required to administer: and if the said master or person having the charge or command of any such vessel, boat, raft or carriage, shall neglect or omit to make the said reports and declaration or either of them, or to attest the same or either of them, on oath or affirmation aforesaid, as the case may require, he shall for every such offence forfeit and pay a sum not less than five pounds, nor more than two hundred and fifty pounds.

Collector to make estimate and give certificate and permit.

IX. *And be it further Enacted by the Authority aforesaid*, That in all cases where any duties are or shall be by law imposed and payable on any goods, wares or merchandize imported from the said United States, so entered at any of the ports aforesaid, the collector or deputy of the port where the same shall be entered, shall make an estimate of the amount of such duties, and the amount of the said duties according to the said estimate having been first paid or secured to be paid, pursuant to the provisions herein after contained, the said collector or his deputy shall give a certificate thereof, and grant a permit to land or unload the said goods, wares or merchandize whereof such entry shall have been so made, and then, and not otherwise, it shall be lawful to land or unload the said goods or proceed therewith.

How to act, when goods from the United States are removed from the port of entry, after duties paid or secured.

X. *And be it further Enacted by the Authority aforesaid*, That when any person or persons shall have occasion to remove by land or water from any port of entry aforesaid, to any other port or place within this Province, any goods, wares or merchandize liable to pay duty, duly imported into any port aforesaid from the United States of America, on which the duties imposed by law shall have been paid or secured to be paid, the collector or deputy of any such port upon requisition in writing for that purpose made and signed by such person or persons, and to such collector or deputy delivered, specifying the particular goods, wares and merchandize to be removed, and the number of packages in which the same are contained, with their marks and numbers, shall, and he is hereby required to give a protection in writing signed by him the said collector or deputy, specifying the particular goods, wares and merchandize to be removed, the number of the packages containing such goods, wares and merchandize, with the marks and numbers, and certifying that such goods, wares and merchandize have been duly entered in that port or harbour, and that the duties thereon have been paid or secured to be paid: And the collector or deputy giving such protection, shall limit therein the time within which such goods, wares or merchandize shall be removed from such port, and also the time within which the said protection shall be in force.

Goods to be unladen in open day without special licence to contrary.

XI. *And be it further Enacted by the Authority aforesaid*, That any goods, wares, or merchandize imported, or brought in or upon any vessel, boat, raft, or carriage, from any port or place in the said United States, shall not be unladen or delivered from such vessel, boat, raft, or carriage, at any port or harbour but in open day, that is to say, between the rising and setting of the sun, except by special licence for that purpose from the Collector or deputy of the port or harbour: And if any goods, wares or merchandize shall be unladen or delivered contrary to the directions aforesaid, or either of them, the master or person having the command or charge of such vessel, boat, raft, or carriage, and every other person who shall knowingly be concerned, or aiding therein, or in removing or otherwise securing the said goods, wares, or merchandize, shall forfeit and pay a sum not less than five pounds, nor exceeding fifty pounds for each offence, and all such goods, wares and merchandize so

Penalty.

unladen

unladen or delivered, ſhall become forfeited, and may be ſeized by the ſaid Collector or his deputy: And where the value, according to the higheſt market price of the ſame, ſhall amount to twenty pounds, the veſſel, boat, raft or carriage, with the tackle, apparel, furniture, cattle, harneſs, and horſe or horſes thereto reſpectively belonging, ſhall alſo become forfeited, and ſhall and may be ſeized by the ſaid Collector or deputy, ſubject nevertheleſs to condemnation by due courſe of law.

No goods liable to duty ſhall be removed from the place of landing until weighed, gauged, taled, or meted.

XII. *And be it further Enacted by the Authority aforeſaid,* That no goods, wares or merchandize liable to pay duty, imported or brought into this Province in or upon any veſſel, boat, raft or carriage, from any port or place in the United States of America, in or upon any veſſel, boat, raft or carriage, requiring to be weighed, gauged, taled, or meted, in order to aſcertain the duties thereon, ſhall be removed from any wharf, or place upon which the ſame may be landed, put, or delivered, before the ſame ſhall have been weighed, gauged, taled or meted, by, or under the direction of the Collector or deputy, which he is hereby directed and required to perform with all convenient ſpeed: And if any ſuch goods, wares or merchandize ſhall be removed from ſuch wharf or place, before the ſame ſhall have been ſo weighed, gauged, taled or meted, the ſame ſhall be forfeited, and may be ſeized by ſuch Collector or deputy, ſubject nevertheleſs to condemnation by due courſe of law.

Penalty.

Duties how paid or ſecured before unlading the goods.

XIII. *And be it further Enacted by the Authority aforeſaid,* That before the unlading of any goods, wares or merchandize imported, or brought into this Province from the ſaid United States, on which any rates or duties are by law impoſed, the ſaid rates and duties ſhall be paid or ſecured to be paid to his Majeſty, his heirs and ſucceſſors, in like manner as the ſame are now raiſed, levied, collected and recovered under and by virtue of any Act of the Britiſh Legiſlature, relating to the cuſtoms and trade of his Majeſty's Colonies in America, and under and by virtue of any Act of the Provincial Parliament of the Province of Lower Canada.

On ſuſpicion of fraud, examination of goods, in what manner to be made.

XIV. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful for the Collector or deputy of any port or harbour aforeſaid, after entry made of any goods, wares or merchandize, on ſuſpicion of fraud, to open and examine in the preſence of two or more reputable perſons, any package or packages thereof, and if upon examination they ſhall be found to agree with the entries, the ſaid Collector or deputy ſhall cauſe the ſame to be repacked and delivered to the ſaid owner or claimant forthwith, and the expence of ſuch examination ſhall be paid by the ſaid Collector or deputy; but if any of the packages ſo examined ſhall be found to differ in their contents from the entry, then the goods, wares and merchandize contained in ſuch package or packages ſhall be forfeited; ſubject nevertheleſs to condemnation according to due courſe of law. Provided always, That the ſaid forfeiture ſhall not be incurred if it ſhall be made appear to the ſatisfaction of the ſaid Collector or deputy, or of the court in which a proſecution for the forfeiture ſhall be had, that ſuch difference proceeded from miſtake or accident, and not from an intention to defraud the revenue.

Forfeitures where goods not entered according to directions of this Act.

XV. *And be it Enacted by the Authority aforeſaid,* That all goods, wares or merchandize which ſhall be imported or brought by land or by inland navigation into this Province from the ſaid United States, and which ſhall not be entered according to the direction of this Act, at the port or harbour where any goods, wares or merchandize ſhall arrive or be brought, ſhall be forfeited, together

together with the veſſel, boat, raft or carriage in or upon which the ſame ſhall be found, or ſhall have been imported, and the tackle, apparel, furniture, cattle, horſe or horſes and harneſs thereunto reſpectively belonging. And the Collector or deputy of the ſaid port or harbour, and all other Collectors and deputies, or other perſon or perſons by them for that purpoſe eſpecially appointed, ſhall have full power and authority to enter into and upon any veſſel, boat, raft or carriage, in which he or they ſhall have reaſon to ſuſpect any goods, wares or merchandizes not entered as aforeſaid to be concealed, and therein to ſearch for, ſeize and ſecure any ſuch goods, wares or merchandize: and if he or they ſhall have cauſe to ſuſpect that any ſuch goods, wares or merchandize are concealed in any particular dwelling houſe, ſtore, building or other place, they or either of them ſhall upon application upon oath to any Juſtice of the Peace, be entitled to a warrant to enter, taking with them a peace officer, ſuch ſtore or other place (in the day time only) and there to ſearch for ſuch goods, wares or merchandize, and if any ſhall be found, to ſeize and ſecure the ſame for trial: and if any perſon or perſons ſhall conceal, or ſhall buy any goods, wares or merchandize, knowing them to be liable to ſeizure by this Act, ſuch perſon or perſons on conviction thereof, ſhall forfeit and pay double the value of the goods, wares or merchandize ſo concealed, purchaſed or exchanged.

Directions for collectors or their deputies to ſearch for goods ſuſpected not to be entered.

Penalty for buying goods liable to ſeizure.

XVI. *And be it Enacted by the Authority aforeſaid*, That all goods, wares and merchandize whereof the importation is not, and ſhall not be entirely prohibited, may freely, for the purpoſes of commerce, be carried and exported free and exempt of all duties whatſoever from and out of this Province into the ſaid United States, as well by his Majeſty's ſubjects as by the citizens of the ſaid United States.

Goods not prohibited to be exported duty free to the United States.

XVII. *And be it further Enacted by the Authority aforeſaid*, That it ſhall be the duty of all collectors and deputies whatſoever to ſeize and ſecure any veſſel, boat, raft or carriage, goods, wares or merchandize which ſhall be liable to ſeizure by virtue of this Act, as well without as within their reſpective diſtricts within this Province, and all goods, wares and merchandize which ſhall be ſeized by virtue of this Act, ſhall remain in the cuſtody of the perſon ſeizing the ſame, until ſuch proceedings ſhall be had, as by law are required, to aſcertain whether the ſame have been forfeited or not: And all penalties and forfeitures enacted by this Act, ſhall be recovered and declared in his Majeſty's Court of King's Bench in this Province, in the ſame manner and form, and upon the ſame evidence and by the ſame rules and regulations, as any penalties and forfeitures incurred for any offences againſt the laws relating to the cuſtoms and trade of his Majeſty's colonies in America, may now be recovered and declared forfeited in ſuch courts reſpectively. And in all caſes of condemnation or of penalties and forfeiture incurred by virtue of this Act, after deducting the charges of proſecution from the groſs produce thereof, the remainder ſhall be divided as follows, one half to his Majeſty, and the other half to the perſon ſeizing the ſame.

Collectors and their deputies may ſeize as well without as within their reſpective diſtricts.

Method of recovering penalties and forfeitures.

Diviſion of the penalties and forfeitures.

XVIII. *And be it further Enacted by the Authority aforeſaid*, That all veſſels, boats, rafts or carriages which ſhall be ſeized in purſuance and by virtue of this Act, or of any Act or Acts of the Parliament of Great Britain, and which ſhall be condemned in his Majeſty's Court of King's Bench, ſhall be ſold by public auction

Mode of ſale of all veſſels, boats, &c. ſeized and condemned.

auction to the beſt bidder, by the collector or deputy of the port or harbour where the ſame ſhall be ſeized, and at the place where ſuch veſſels, boats, rafts or carriages ſhall be ſeized.

Proviſions in caſe of actions or proſecution for things done under this Act.

XIX. *And be it Enacted by the Authority aforeſaid*, That if any collector or deputy, or other perſon executing or aiding in the ſeizure of any veſſel, boat, raft or carriage, cattle, horſe or horſes, harneſs, tackle, apparel or furniture, goods, wares or merchandize, or other thing whatſoever, ſhall be ſued or proſecuted for any thing done in virtue of the powers of this Act; or by virtue of a warrant granted to any Juſtice of the Peace, purſuant to law, ſuch officer or other perſon may plead the general iſſue and give this Act and the ſpecial matter in evidence; and if in ſuch ſuit the plaintiff ſhall be nonſuited or judgment paſs againſt him, the defendant ſhall recover double coſts, and in caſe any information ſhall be commenced and brought to trial on account of the ſeizure of any veſſel, boat, raft or carriage, cattle, horſe or horſes, harneſs, tackle, apparel, furniture, goods, wares, merchandize or other things whatſoever as forfeited by this Act, wherein a judgment ſhall be given for the claimant, and it ſhall appear to the Court before whom the ſame ſhall be tried, that there was a probable cauſe of ſeizure, the court ſhall certify on the record that there was a probable cauſe for ſeizing the ſame, and in ſuch caſe the defendant ſhall not be entitled to any coſts whatſoever, nor ſhall the perſons who ſeized be liable to any action or proſecution on account of ſuch ſeizure: And in caſe any action or proſecution ſhall be commenced and brought to trial againſt any perſon whatſoever on account of the ſeizing any ſuch veſſel, boat, raft, or carriage, cattle, horſe or horſes, harneſs, tackle, apparel, furniture, goods, wares or merchandize, or other thing, where no information ſhall be commenced or brought to trial to condemn the ſame, and a judgment ſhall be given upon ſuch action or proſecution againſt the defendant or defendants, if the court, before whom ſuch action or proſecution may be brought, ſhall certify in like manner as aforeſaid, that there was a probable cauſe for ſuch ſeizure, then the plaintiff, beſides the veſſel, boat, raft or carriage, cattle, horſe or horſes, harneſs, tackle, apparel, furniture, goods, wares, merchandize or other thing or things ſo ſeized, or the value thereof, ſhall not be entitled to above one ſhilling damages, nor to any coſts of ſuit, nor ſhall the defendant in any ſuch action or proſecution be fined above one ſhilling; Provided always, and be it enacted by the authority aforeſaid, That all and every ſuch goods, wares or merchandize, veſſel, boat, raft, or carriage, horſe or horſes, cattle, harneſs, tackle, apparel, or furniture, which ſhall be ſo ſeized and condemned, ſhall be advertiſed for ſale on a day certain, not leſs than fifteen days after ſuch condemnation.

When ſeizures to be advertiſed for ſale.

Table of fees to be affixed in the Collector's office.

XX. *And be it further Enacted by the Authority aforeſaid*, That the Collectors and deputies of the ſaid ports and harbours ſhall cauſe to be affixed and kept in ſome public and conſpicuous place in their offices, a fair table of the fees to be taken and received by the ſaid Collectors and deputies, which fees ſhall be as follows:—

For every report of the arrival of and permit to unload any veſſel, boat or batteau under five tons burthen—One ſhilling and three pence.

Ditto of any veſſel, &c. of five tons or upwards, and not exceeding fifty tons—Two ſhillings and ſix-pence.

Ditto of any veſſel, &c. exceeding fifty tons—Ten ſhillings.

Ditto

Ditto of any waggon, cart, sleigh, or other carriage—Four pence.
For every entry of goods imported by water communication—One shilling and three-pence.
For ditto ditto by any waggon, cart, sleigh, or other conveyance—Six-pence.
For every certificate of goods having paid duty and protection—Six-pence.
For every bond for payment of duties—Two shillings and six-pence.

Penalties for taking more than legal fees.

XXI. *And be it further Enacted by the Authority aforesaid*, That if any Collector or deputy at any port or harbour shall demand or receive any greater or other fee, compensation or reward for executing any duty or service required of him by law, he shall forfeit and pay the sum of fifty pounds for each offence, recoverable in his Majesty's Court of King's Bench, to the use of the party grieved.

Names of the places where Collectors are to be appointed, and their respective districts.

XXII. *And be it further Enacted by the Authority aforesaid*, That the Collectors and their precincts shall be as follow :—

A Collector at Cornwall for the Eastern District.
At Johnstown for the District of Johnstown.
At Kingston for the Midland District.
At Newcastle for the Counties of Northumberland and Durham.
At York for the remainder of the Home District.
At Niagara for the first, second and third Ridings of the County of Lincoln.
At Fort Erie for the remainder of the District of Niagara and County of Haldimand.
At Turkey Point for the District of London.
At Sandwich for the Western District.

CHAP. VI.

An ACT *to remove doubts with respect to the authority under which the Courts of General Quarter Sessions of the Peace and other Courts have been erected and holden, and other matters relating to the administration of Justice done in the several Districts of this Province, and also to fix the times of holding the Courts of General Quarter Sessions of the Peace in and for the same.*

Preamble.

WHEREAS doubts have arisen with respect to the authority under which the Courts of General Quarter Sessions of the Peace, the District Courts, the Surrogate Courts and the Courts of Requests have been erected and are now holden in the several Districts of this Province, and also the authority under which Commissions of the Peace, Commissions of Assize and Nisi Prius, Commissions of Oyer and Terminer, Commissions to Sheriffs and other persons concerned in the administration of Justice, have been issued in and for the said Districts respectively, for removal of such doubts, Be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, And it is hereby declared and enacted, that the authority under which the said

Confirmation of Courts, Commissions, &c.

Courts

Courts and Commiſſions have been erected, holden and iſſued, and alſo all matters and things done by or by virtue of the ſame are ſo far as relates to the authority under which the ſame have been ſo erected, holden, iſſued and done, good and valid to all intents and purpoſes whatſoever, and that the proviſions of all the Acts of the Legiſlature of this Province reſpecting the ſaid Courts and Commiſſions, or any of them, are hereby declared to extend and be in force (except as herein after mentioned) in each and every the ſaid diſtricts reſpectively.

Times of holding Quarter Seſſions.

II. *And be it further Enacted by the Authority aforeſaid*, That the Courts of General Quarter Seſſions of the Peace in and for the Weſtern Diſtrict, the Diſtrict of Niagara, and the Home Diſtrict reſpectively, ſhall be holden in the towns of Sandwich, Niagara and York, on the ſecond Tueſday in the months of January, April, July and October.

And that the ſaid Courts of General Quarter Seſſions of the Peace in and for the Diſtrict of London, ſhall be holden in the town of Charlotteville, on the ſecond Tueſday in the months of March, June, September and December.

And that the ſaid Courts of General Quarter Seſſions of the Peace in and for the Midland Diſtrict, ſhall be holden in the town of Adolphus Town on the fourth Tueſday in the month of January, and on the ſecond Tueſday in the month of July, and in the town of Kingſton on the fourth Tueſday in the month of April, and on the ſecond Tueſday in the month of October.

And that the Courts of General Quarter Seſſions of the Peace in and for the Diſtrict of Johnſtown, ſhall be holden in the town of Johnſtown on the third Tueſday in the months of February and May, and on the ſecond Tueſday in the months of Auguſt and November.

And that the Courts of General Quarter Seſſions of the Peace in and for the Eaſtern Diſtrict, ſhall be holden in the town of Cornwall on the fourth Tueſday of the months of January and April, and on the ſecond Tueſday of the months of July and October.

Proviſion reſpecting the diſtricts of London and Johnſtown.

III. *And be it further Enacted by the Authority aforeſaid*, That the duties which are required by law to be done and executed by any perſon or perſons, at or before the April ſeſſions, ſhall be done and executed at or before the June ſeſſions, in the Diſtrict of London, and at or before the May ſeſſions in the Diſtrict of Johnſtown.

CHAP. VII.

An ACT *to authorize the Governor, Lieutenant Governor, or Perſon adminiſtering the Government to appoint Inſpectors of Flour, Pot and Pearl Aſhes within this Province.*

Preamble.

WHEREAS it would be for the mutual advantage of buyers and ſellers of Flour, Pot, and Pearl aſhes, and tend to eſtabliſh the credit of thoſe articles in foreign markets, if means were adopted for the aſcertaining the quality of thoſe articles when offered for ſale within this Province; Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame: That from

and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government for the time being, to apppoint one or more persons in every district of this Province, at such place or places as he shall deem proper, as Inspector or Inspectors, of Flour, Pot and Pearl Ashes, and the said Inspector or Inspectors, before he or they shall enter upon the execution of such office, shall take the following oath:

Appointment in every district, of Inspectors of flour, pot and pearl ashes.

Oath to be taken by Inspectors.

II. *I do sincerely swear, that I will faithfully and impartially, and according to the best of my skill and understanding, execute the office and duty of an Inspector or examiner of Flour, or Pot and Pearl ashes (as the case may be) according to the true intent and meaning of an Act of this Province, intituled, "An Act to authorize the Governor, Lieutenant Governor, or person administering the Government, to appoint Inspectors of Flour, Pot and Pearl ashes within this Province."* So help me God.

Method of examining flour, pot and peal ashes, & marking the casks in which they are contained.

III. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for any person or persons, having Flour, Pot or Pearl ashes for sale, to call upon the Inspector to examine the same, who is hereby authorized and required to examine such Flour, by boring the head of the cask, and piercing through the Flour, with the usual instrument, in order to prove whether it be honestly and truly packed, and to judge of its quality; and the said Inspector shall declare the quality of the same, by marking it as superfine, fine, or middling, and if unsound or soured, he shall also mark the same on the head of each cask, and in the case of Pot and Pearl ashes, the Inspector is hereby authorized and required to unpack the cask or casks in which it is contained, and to repack the same, and he shall declare the quality thereof, by marking each cask as first, second or third sort, or merely salts, as the case may be.

Fees allowed to the Inspectors.

IV. *And be it further Enacted by the authority aforesaid*, That it shall and may be lawful for such Inspector to ask and receive of and from the person calling upon him to search and examine Flour, Pot and Pearl ashes as aforesaid, for every barrel of Flour, three pence, and for every cask of Pot and Pearl ashes, one shilling.

CHAP. VIII.

An ACT *to prevent the sale of Spirituous Liquors and strong waters in the tract occupied by the Moravian Indians on the River Thames, in the Western District.*

Preamble.

WHEREAS it is necessary for the comfort of the Moravian Indians inhabiting that certain tract of land on each side of the River Thames, called the township of Orford, and for the better regulation of the said Indians, that no rum or spirituous liquors should be sold within that township:

Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, it shall not be lawful

No person to sell or barter

for

for any perſon or perſons whatſoever, to ſell or barter any rum, brandy, whiſky, or other ſpirituous liquors, or ſtrong waters, within the ſaid tract, ſo occupied by the ſaid Indians.

rum, &c. within the tract occupied by the Moravian Indians.

II. *And be it further Enacted by the Authority aforeſaid*, That if any perſon ſhall be convicted of ſelling, or bartering any rum, brandy, whiſky, or other ſpirituous liquors, or ſtrong waters, within the aforeſaid tract, he ſhall be convicted after the ſame manner, and be ſubject to the ſame pains, penalties, and fines as perſons ſelling ſpirituous liquors without licence are now convicted and fined according to law.

Penalty.

CHAP. IX.

An ACT *the better to adapt the Eſtabliſhment of the Court of King's Bench to the preſent ſituation of this Province.*

WHEREAS experience has ſhewn, that under the preſent circumſtances of this Province, the benefits intended to ariſe to the adminiſtration of juſtice, by the eſtabliſhment of the Court of King's Bench, have not been, and cannot be obtained, unleſs ſome expedient be adopted to make the ſaid Court more acceſſible: For remedy thereof, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame: That the office which the Clerk of the Crown and Pleas now hath in each Diſtrict be, and the ſame is hereby declared to be an office from which all original proceſs may iſſue, and in which actions may be inſtituted, and all neceſſary proceedings had before final judgment, in the ſame manner as the ſame may now be done in the principal office of the ſaid Clerk.

Preamble.

Office of the Clerk of the Crown & Pleas in each district.

II. *And be it further Enacted by the Authority aforeſaid*, That whenever either the plaintiff or defendant, in any ſuit hereafter to be inſtituted in any diſtrict, except the Home Diſtrict, may think it neceſſary to produce to the Court the writ, declaration, plea, or any other proceeding which may have been filed in ſuch cauſe, it ſhall and may be lawful for the ſaid plaintiff or defendant to demand and receive, from the deputy Clerk of the Crown and Pleas in the diſtrict, a copy of ſuch writ, declaration plea, or other proceeding in the cauſe, certified by the ſaid Clerk to be a true copy of the original, which copy ſhall be received by the Court in all caſes, in lieu of the original, and as a proof thereof.

Mode of proceeding out of the Home diſtrict.

III. *And be it further Enacted by the Authority aforeſaid*, That before final judgment, the record of the ſeveral proceedings that have been had in the cauſe, ſhall be tranſmitted to the principal office of the ſaid Clerk, and ſhall remain in his cuſtody.

IV. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for the ſaid Court, to make ſuch general rules and regulations as to it ſhall ſeem expedient and neceſſary for the carrying the proviſions of this Act into effect, according to the true intent and ſpirit thereof.

Court to make rules and regulations.

Commencement of this Act.

V. *Provided nevertheless, and be it further Enacted by the authority aforesaid,* That this Act shall not take effect, until the first day of November next.

CHAP. X.

An ACT *to regulate the Statute Labour to be done upon the Roads in the tract occupied by the Huron Indians in the County of Essex, in the Western District.*

Preamble.

WHEREAS it is necessary that the road which passes through the tract occupied by the Huron Indians, in the County of Essex, should be kept in good repair, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, Be it enacted, that the King's high road, which leads through the said tract, between the township of Malden, and the township of Sandwich, be kept in good and sufficient repair, by the inhabitants of the said townships, that is to say, the southern half of the said road by each and every person living within and inhabiting the township of Malden and the northern half of the said road, by each and every person living within and inhabiting the township of Sandwich.

Road between Sandwich and Malden.

Bridge over the River aux Canards.

II. *And be it further Enacted by the Authority aforesaid,* That the bridge which has been erected over the River aux Canards, shall be, and is hereby directed to be kept in good and sufficient repair, by the inhabitants of the aforesaid Townships generally.

Penalty for refusing to work on the road or bridge.

III. *And be it further Enacted by the Authority aforesaid,* That if any person as aforesaid, shall refuse to work upon the said road, or towards the repair of the said bridge, after he shall have been warned so to do, according to law; it shall and may be lawful for any one magistrate to issue his warrant to bring such offender before him, and to inflict such punishment as may now be inflicted upon any defaulter, for neglect or refusal to work upon any other his Majesty's highways in this Province.

Labour to be done.

IV. *And be it further Enacted by the Authority aforesaid,* That the statute labour herein directed, is not to extend beyond the quota of statute labour as now regulated by law, but is to be a part thereof.

CHAP. XI.

An ACT *to prevent the Acts of the Legislature from taking effect from a time prior to the passing thereof.*

WHEREAS every Act of the Legislature of this Province in which the commencement thereof is not directed to be from a specific time, doth commence from the first day of the session in which such Act is passed: And whereas the same is liable to produce great and manifest injustice: For remedy thereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That the Secretary of this Province shall indorse on every Act of the Legislature of this Province which shall pass during the present, and every future session thereof, immediately after the title of such Act, the day, month and year, when the same shall have passed and received the Royal assent, and such indorsement shall be taken to be a part of such Act, and to be the date of its commencement, where no other commencement shall be therein provided.

CHAP. XII.

CHAP. XII.

An ACT *for granting to his Majesty, a certain sum of Money out of the Provincial Fund, to defray the payment of the Salaries of the Officers of the Legislative Council and House of Assembly (including the Commissioners to Lower Canada) and to defray the Contingent Expences thereof; and further to appropriate the Supplies and provide for the Payment of the same hereafter.*

MOST GRACIOUS SOVEREIGN,

Appropriation of Provincial funds.

WE your Majesty's most dutiful and loyal subjects the Commons of Upper Canada in Parliament assembled, to defray the payment of the Salaries of the Officers of the Legislative Council and House of Assembly, and for defraying the contingent expences thereof, as well as to defray the payment of the Commissioners to Lower Canada, have resolved to give and grant unto your Majesty, out of the rates and duties already raised, levied and collected, and hereafter to be raised, levied or collected, the sum hereafter mentioned, and do most humbly beseech your Majesty, that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, 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, and by the authority of the same. That from and out of the rates and duties already raised, levied and collected, or hereafter to be raised, levied and collected, to and for the purposes of paying the salaries of the officers of the Legislative Council and House of Assembly, and for defraying the contingent expences thereof, and to and for the uses of this Province, there be granted to his Majesty the sum of two thousand two hundred and fifty-five pounds five shillings, to be issued out of the Provincial Fund in the Receiver General's hands to the uses hereafter expressed, and defray the following expences, that is to say,

For Services rendered previous to the present session of Parliament as follows:

The Clerk of the Legislative Council, one hundred and forty-five pounds.
The Usher of the Black Rod, fifty pounds.
The Master in Chancery attending the Legislative Council, fifty pounds.
The Chaplain of the Legislative Council, thirty pounds.
The Door Keeper of the Legislative Council, twenty pounds.
The Speaker of the House of Assembly, two hundred pounds.
The late Clerk of the House of Assembly for two years salary due, three hundred pounds.
The Serjeant at Arms, fifty pounds.
To the same, for the contingent expences of the House of Assembly, five pounds fifteen shillings.
The Chaplain of the House of Assembly, thirty pounds.
The Door Keeper of the House of Assembly, twenty pounds.
Printing the heads of a Bill relative to the carrying place at Niagara, four pounds ten shillings.
The two Commissioners to Lower Canada, one hundred pounds each, two hundred pounds.

For the Services of the present Session, as follows:

The Clerk of the Legislative Council, one hundred and twenty five pounds.
The Usher of the Black Rod, fifty pounds.
The Master in Chancery attending the Legislative Council, fifty pounds.
The Chaplain of the Legislative Council, fifty pounds.
The Door Keeper of the Legislative Council, twenty pounds.
The Speaker of the House of Assembly, two hundred pounds.
The Clerk of the House of Assembly, one hundred and twenty-five pounds.
The Serjeant at Arms, fifty pounds.
The Chaplain of the House of Assembly, fifty pounds.

The

The Door Keeper of the Houſe of Aſſembly, twenty pounds.
The copying Clerks, a ſum not exceeding fifty pounds.
For printing the Acts and Journals of the preſent ſeſſion, a ſum not exceeding three hundred pounds.
For Furniture for the Houſe of Aſſembly, and other contingent expences, purſuant to an Addreſs, ſixty pounds.

Two thouſand two hundred and fifty-five pounds five ſhillings.

Future application.

II. *And be it further Enacted*, That there be granted annually to his Majeſty, out of the rates and duties aforeſaid, to be iſſued out of the Provincial Treaſury from ſuch monies as may from time to time come into the Receiver General's hands, the ſum of one thouſand and ninety pounds, to and for the uſes hereafter expreſſed, and to defray the following expences, that is to ſay, ſeven hundred and forty pounds for the payment of the Salaries of the Officers of the Legiſlative Council and Houſe of Aſſembly, as recited in the detail for the ſervice of the preſent ſeſſion, and three hundred and fifty pounds for the payment of Copying Clerks, and the printing of the Laws and Journals.

Mode of payment.

III. *And be it further Enacted*, That the monies hereby granted to his Majeſty ſhall be paid by the Receiver General, in diſcharge of ſuch warrant or warrants as ſhall, for the purpoſes herein ſet forth, be from time to time iſſued by his Excellency the Governor, Lieutenant Governor, or perſon adminiſtering the government of this Province for the time being, and not otherwiſe; and the ſaid Receiver General ſhall account to his Majeſty for the ſame, through the Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as his Majeſty ſhall direct.

[*** *The reader will take notice, that the twelve foregoing Acts, paſſed during this Seſſion, reſpectively received the Royal Aſſent on the ninth day of July*, 1801.]

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

PASSED IN THE SECOND SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF UPPER CANADA, MET AT YORK, ON THE TWENTY-FIFTH DAY OF MAY, IN THE FORTY-SECOND YEAR OF THE REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE SEVENTH DAY OF JULY FOLLOWING.

CHAP. I.

An ACT *the better to aſcertain and ſecure the title to Lands in this Province.*

[Paſſed 7th July, 1802.]

Preamble.

WHEREAS a certain Act of this Province paſſed in the thirty ſeventh year of his Majeſty's reign, intituled, "An Act for ſecuring Titles to Lands in this Province,

vince," and which Act has been ſince extended by a certain other Act intituled, "An Act to continue an Act intituled, An Act for ſecuring the Titles to Lands in this Province" will very ſhortly expire; and whereas it is judged expedient to make further proviſion for the aſcertaining the validity of certain claims to Lands in caſes in which his Majeſty's letters patent have not as yet been made out, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That at any time during the ſpace of two years from and after the expiration of the before mentioned Act, it ſhall and may be lawful to and for the Governor, Lieutenant Governor, or perſon adminiſtering the Government of this Province, to iſſue ſuch and ſo many Commiſſions under the Great Seal of this Province, for each and every diſtrict within the ſaid Province, in ſuch manner and form, and to be directed to ſuch and ſo many perſons as he ſhall judge proper, of whom his Majeſty's Chief Juſtice of this Province, or one of the Juſtices of the Court of King's Bench ſhall be one, which ſaid Commiſſioners, or any three of them, in caſes in which his Majeſty's letters patent have not as yet been made out, ſhall, by and under the authority of ſuch Commiſſion or Commiſſions, have power to hear and determine in manner hereinafter ſpecified, all claims to lands, or to a lien or liens upon lands in this Province, in which the claim or title of the original nominee or nominees ſhall be found to have accrued or exiſted, prior to the paſſing of this Act, and reſpecting which lands no report has been made under the ſaid former Acts, whether ſuch claims ſhall be ſet up by the original nominee or nominees thereof, or by perſons claiming abſolute title under ſuch nominee or nominees, or as mortgage creditors of, or under ſuch nominee or nominees; Provided the original nominee or nominees founded his, her or their claim or claims under the authority of General Haldimand's certificates, Lieutenant Governor Hamilton's certificates, the Surveyor General's Department, Land Board certificates, Magiſtrates recommendations, Treaſury Tickets for Canada Bounty, and Orders in Council, or any other authority in any wiſe derived from his Majeſty.

Commiſſions to iſſue.

Judges to be Commiſſioners.

II. *And be it Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for all and every perſon or perſons ſetting up ſuch claims as aforeſaid, either in perſon, or by agent duly authorized, to come before and produce to ſuch Commiſſioners, or any three of them, whereof the ſaid Chief Juſtice, or ſome one of the ſaid Juſtices of the ſaid Court of King's Bench, ſhall be one, all ſuch documents and evidences as he, ſhe or they may be in poſſeſſion of, for the purpoſe of ſatisfying ſuch Commiſſioners as aforeſaid of the validity of ſuch claim or claims as he, ſhe or they ſhall or may ſet up to any ſuch lands as aforeſaid, for which purpoſe ſuch Commiſſioners, or any one of them, are and is hereby authorized and empowered to adminiſter ſuch oath or oaths either to the party or parties claiming, or to the witneſs or witneſſes appearing in ſupport of ſuch claim or claims, whether the ſame be between ſubject and ſubject, or between the ſubject and the Crown, as ſhall be judged proper and expedient; and alſo by ſummons under the ſignature of any one of the ſaid Commiſſioners, to require the attendance of all ſuch perſons whoſe evidence may be judged neceſſary to aſcertain the validity of any ſuch claim or claims, or to explain the ſubject matter thereof, and in ſuch ſummons alſo to order the production of all ſuch books, papers and documents as ſhall be in the cuſtody or power of any ſuch perſon or perſons, whoſe attendance ſhall be ſo required by ſuch ſummons, in ſuch manner as ſuch Commiſſioner or Commiſſioners ſigning ſuch ſummons ſhall deem expedient; which ſummons all and every perſon and perſons to whom the ſame ſhall be directed, is and are hereby required to yield obedience to upon being duly ſerved therewith. Provided always nevertheleſs, and it is hereby declared, That the ſaid Commiſſioners acting under ſuch authority as aforeſaid, are hereby authorized and empowered to receive ſuch written or oral teſtimony as may be produced to

How claims to be brought forward,

And proved.

Commiſſioners may ſummon witneſſes, &c.

to them whether the ſame be or be not conſiſtent with the rules of evidence laid down or eſtabliſhed by the laws of England, and to give and allow ſuch force and effect to ſuch teſtimony as juſtice in each reſpective caſe ſhall in their judgment require.

Report to be final,

III. *And be it further Enacted by the Authority aforeſaid*, That after the ſaid commiſſioners ſhall in virtue of ſuch commiſſion or commiſſions, have examined ſuch claim or claims as aforeſaid, they ſhall be at liberty either to reject ſuch claim or claims, or to allow the ſame, as in their judgment, juſtice and the equity and good conſcience of the caſe may require, without any regard to legal forms or ſolemnities whatſoever, and to report on the ſame accordingly, which report ſhall be final and concluſive, and ſhall be addreſſed to the Governor, Lieutenant Governor, or Perſon adminiſtering the Government of this Province in Council; and from thenceforth, the Governor, Lieutenant Governor, or Perſon adminiſtering the Government of the Province, ſhall be at liberty, and he is hereby empowered and authorized to iſſue his Majeſty's Letters Patent for the lands ſpecified in ſuch report, to the party or parties, his, her or their heirs and aſſigns, in favour of whom ſuch report ſhall have been made in manner aforeſaid. Provided always nevertheleſs, that in caſe the ſaid Commiſſioners or either of them ſhall, during their ſitting, or within fifteen days after they ſhall have ſigned ſaid report, and before his Majeſty's Letters Patent ſhall have been iſſued in purſuance thereof, by repreſentation from any perſon or perſons claiming to be intereſted therein, be ſatisfied, or have reaſon to believe that the report ſo far as concerns any particular lot or lots of land, has been obtained by ſurpriſe, or has been made erroneouſly, or that another perſon can ſhew a preferable claim to ſuch lot or lots of land, and that juſtice requires that ſuch report ſhould be ſtaid, ſo far as concerns ſuch lot or lots of land; that then it ſhall and may be lawful to and for the ſaid commiſſioners, or any other commiſſioners who may ſit in execution of the ſaid commiſſion, or any ſubſequent commiſſion, to rehear ſuch claim, or to let in new claims to ſuch particular lot or lots of land, and upon ſuch rehearing, ſuch commiſſioners ſhall be at liberty to report on the claims to be thereupon heard, as if no report had before been made, and ſuch commiſſioners ſhall alſo be at liberty, if they ſhall judge it expedient to juſtice, to order any of the parties, at whoſe inſtance ſuch rehearing was obtained, to pay ſuch ſum or ſums of money to the party or parties in favour of whom a Report ſhall have been firſt made, as they ſhall ſee juſt, to be recovered in like manner as the coſts and expences of witneſſes are by this Act directed and authorized to be recovered.

Addreſſed to the Governor, &c. in Council.

In what caſes Commiſſioners may ſtay report,

And order rehearing,

And award coſts.

Notice of the ſitting of the Commiſſioners,

IV. *Provided nevertheleſs, and be it further Enacted by the Authority aforeſaid*, That the ſaid Commiſſioners ſhall not proceed to examine any ſuch claim as aforeſaid, unleſs they ſhall have cauſed notice in writing of their intention to proceed upon the buſineſs of the ſaid Commiſſion, to be fixed up in ſome conſpicuous part of the office of the Clerk of the Peace, and at three other the moſt public places of each Diſtrict reſpectively, at leaſt one month before they ſhall begin to act therein; and alſo unleſs a notice ſpecifying ſuch claim or claims, and the name or names of the claimant or claimants, together with the number of the lot or lots, and of the conceſſion or conceſſions, with the name and names of the townſhip and townſhips, diſtrict and diſtricts, in which the lands ſo claimed reſpectively lie or are ſituated, ſhall have been fixed up in ſome conſpicuous part of the ſaid office of the Clerk of the Peace at leaſt fifteen days before the ſame ſhall come on to be heard.

And of claims.

How Commiſſioners ſhall proceed when there are two or more adverſe claims.

V. *And be it further Enacted by the Authority aforeſaid*, That in all caſes in which, before the Commiſſioners ſhall have proceeded to decide upon the right to any particular lot or tract of land, two or more notices by different perſons, ſhall have been fixed up in the office of the Clerk of the Peace, claiming adverſely ſuch particular lot or tract of land, it ſhall and may be lawful to and for ſuch Commiſſioners to defer or delay the hearing of ſuch adverſe claims or either of them, and to give to all, any or either of ſuch claimants, ſuch further or enlarged time for the production of evidence, and for the deciſion of ſuch claim or claims as ſuch Commiſſioners ſhall deem expedient to juſtice.

V. *And*

How mortgages, &c. may be brought forward, and registration obtained.

VI. *And be it further Enacted by the Authority aforesaid*, That in all cases in which any claim or claims shall or may be set up before the said Commissioners under any mortgage, or security made, or by writing agreed to be made by such original nominee or nominees as aforesaid, or by any person or persons claiming under such nominee or nominees, the said Commissioners acting under such authority as aforesaid, are, if they shall be satisfied that such claim is well founded, hereby authorized and empowered to report in favour of such mortgage or mortgages, agreement or agreements, which report respecting such mortgages or agreements, the Register of each County or Riding, in which such lands shall be respectively situate, shall, and they are hereby required upon the production of the certificate of the said Commissioners, specifying their allowance of the said mortgage or agreement, to enregister or cause the same to be enregistered in the respective offices, and after such mortgages or agreements shall have been so enregistered accordingly, such registration shall have the same force and effect upon the said lands, as the registration would have had, if the party had been seised of the legal estate in such lands.

Penalty of false swearing.

VII. *And be it further Enacted by the Authority aforesaid*, That in case any person or persons who shall appear before the said Commissioners to give evidence respecting any such claim or claims as aforesaid, shall wilfully or corruptly forswear him, her, or themselves, in the giving such evidence, he, she, and they shall incur the like pains and penalties as would have been incurred upon a conviction for wilful and corrupt perjury in any evidence given in his Majesty's Court of King's Bench in this Province, in any cause there depending.

Witnesses expences to be paid.

VIII. *And be it further Enacted by the Authority aforesaid*, That in all cases in which witnesses shall have duly appeared to give evidence before such Commissioners, either voluntarily or in obedience to such summons as aforesaid, it shall and may be lawful to and for the said Commissioners to order and direct the party or parties who shall have produced such witness or witnesses, to pay such witness or witnesses for his, her or their loss of time and expence, such sum or sums of money as such Commissioners in their judgment shall deem equitable and just, and which order the party or parties upon whom the same shall be made, is, and he, she and they is and are hereby required and enjoined to yield obedience to, and such sum or sums of money shall and may be recovered and recoverable under and by authority of this Act, by action or suit in any of his Majesty's Courts of Justice in this Province, due regard being had to their respective jurisdictions.

Expence of executing the Commissions to be defrayed from the Provincial Treasury.

IX. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, from time to time during the existence of this Act, by warrant under his hand, to order and direct the Treasurer of the said Province to pay to and for the use of the said Commissioners acting in the execution of the said Commissions respectively, such reasonable sum or sums of money, as will indemnify the said Commissioners respectively against expences to be by them incurred during the sitting of, and in the execution of the said Commission.

Clerk's Fees.

X. *And be it further Enacted by the Authority aforesaid*, That it shall and may be lawful to and for the Clerk of the Peace in each and every district, who is hereby authorized and empowered to act as Clerk of the said Commission, to demand and receive of and from the several persons who shall apply to him for any of the purposes of this Act, the following fees :—

For receiving, fixing up in his office, and setting down for hearing any claim for a grant, and also for making up a report respecting the same, the sum of five shillings.

For receiving and ſetting down for hearing any caveat, three ſhillings and nine-pence.

For a copy of the order reſpecting each claim reſpectively, two ſhillings and ſix-pence.

For every ſummons ſigned by one or more Commiſſioners for the attendance of one or more witneſſes, two ſhillings and ſix-pence.

XI. *And be it Enacted by the Authority aforeſaid*, That this Act ſhall be in force for the ſpace of two years from the day of the paſſing thereof, and no longer.

CHAP. II.

An ACT *to provide for the Adminiſtration of Juſtice in the Diſtrict of Newcaſtle.*

[Paſſed July 7th, 1802.]

Preamble. WHEREAS the counties of Northumberland and Durham, with all the lands in their rear confined between their extreme boundaries, produced North ſixteen degrees Weſt, until they interſect the Northern limits of this Province, under and by virtue of a certain Act of Parliament, intituled, "An Act for the better diviſion of this Province," paſſed in the ſecond Seſſion of the ſecond Parliament thereof, (to which the Royal Aſſent was promulgated by Proclamation bearing date the firſt day of January, in the fortieth year of his Majeſty's reign) are declared to be a ſeparate diſtrict of this Province, to be called the diſtrict of Newcaſtle; And whereas it is expedient that the ſaid diſtrict of Newcaſtle ſhould poſſeſs and enjoy all and every juriſdiction, privilege and advantage now poſſeſſed and enjoyed by the other diſtricts of this Province, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That Courts of Oyer and Terminer, Aſſize, Niſi Prius, Gaol Delivery and of the Peace, Courts of General and Quarter Seſſions of the Peace, Diſtrict Court, Surrogate Court, Court of Requeſts, and every Court and Juriſdiction whatſoever held, or to be held, poſſeſſed and enjoyed in and by the other Diſtricts of this Province, ſhall from henceforth, with the like powers and authorities, be held, poſſeſſed and enjoyed in, and by the ſaid Diſtrict of *Newcaſtle*; and that all and every juriſdiction, regulation, rule, privilege, exemption, matter or thing which hath, or have been enacted, provided and declared, or ſhall be hereafter enacted, provided and declared by any Act or Acts of the Parliament of this Province made or to be made, touching and concerning the ſaid other Diſtricts, ſhall be, and are hereby extended to that Diſtrict, unleſs otherwiſe provided for and declared by this Act; and that Courts of Oyer and Terminer, Aſſize, Niſi Prius and Gaol Delivery, ſhall firſt be held (unleſs under ſpecial Commiſſion) in and for the ſaid Diſtrict of *Newcaſtle*, during the Circuit of the Judges of his Majeſty's Court of King's Bench through this Province, in the year of our Lord one thouſand

Courts, &c. held in the other Diſtricts to be held in this Diſtrict.

Courts of Oyer and Terminer, &c. poſtponed till 1803.

thouſand eight hundred and three. Provided nevertheleſs, that if any cauſe of action hath ariſen, or ſhall ariſe, and any action thereupon hath been or ſhall be commenced, or any indictable offence hath been or ſhall be committed within the ſaid Diſtrict of *Newcaſtle*, which ſaid action or indictable offence by due courſe of law might have been brought to iſſue and trial, if the ſaid Diſtrict of *Newcaſtle* had not been erected and conſtituted, at the next aſſizes to be holden in and for the Home Diſtrict, it ſhall and may be lawful as heretofore, then and there to try the ſaid actions and indictments, any thing herein contained to the contrary notwithſtanding. Proviſo.

II. *And be it further Enacted by the Authority aforeſaid*, That a gaol and court houſe for the ſaid Diſtrict of *Newcaſtle* ſhall be erected and built in ſome fit and convenient place within the town of *Newcaſtle*, in ſuch manner, and under the ſame rules, regulations and directions as in that reſpect are made and provided in and by a certain Act paſſed in the thirty-ſecond year of his Majeſty's reign, intituled, "An Act for building a Gaol and Court Houſe in every Diſtrict throughout this Province, and for altering the names of the ſaid Diſtricts," and that all and every the clauſes, proviſions, rules, regulations, matters and things in the ſaid laſt recited Act contained, ſhall, under the ſame penalties as therein are contained in all caſes, and in reſpect to all perſons, extend and be extended to the Diſtrict of *Newcaſtle* aforeſaid. Gaol & Court-houſe to be erected.

III. *Provided nevertheleſs, and be it further Enacted by the Authority aforeſaid*, That until ſuch time as the ſaid gaol and court houſe in and for the Diſtrict of *Newcaſtle* aforeſaid, ſhall have been erected and built, whether out of the fund produced by the Diſtrict aſſeſſments and rates, or otherwiſe, that it ſhall and may be lawful for the majority of his Majeſty's Juſtices of the Peace, reſiding within the Diſtrict of *Newcaſtle*, to appoint ſome place therein for the holding of the Courts of General and of Quarter Seſſions of the Peace, and of all the other Courts, held at a place certain in the ſaid other Diſtricts of this Province. Proviſion until Gaol and Court-houſe are erected.

IV. And whereas the ſaid counties of *Northumberland* and *Durham*, with the ſaid other lands now conſtituting the Diſtrict of *Newcaſtle*, did heretofore belong to and conſtitute a part of the Home Diſtrict of this Province, and were ſubject to the juriſdictions, powers and authorities of that Diſtrict, *Be it therefore further Enacted by the Authority aforeſaid*, That no juriſdiction, power or authority of what nature or kind ſoever to the ſaid Home Diſtrict at this time belonging and appertaining, ſhall extend or be conſtrued to extend to the ſaid Diſtrict of *Newcaſtle*. Provided nevertheleſs that nothing herein contained ſhall affect, change, or in any wiſe invalidate the juriſdictions, commiſſions, powers and authorities which heretofore were eſtabliſhed, poſſeſſed and exerciſed in that part of the ſaid Province, which before the erecting and conſtituting of the ſaid Diſtrict of *Newcaſtle*, formed and conſtituted the Home Diſtrict, and that all Acts, matters and things which have been lawfully done under and by virtue of the ſaid juriſdictions, commiſſions, powers and authorities within that Diſtrict, ſo far as reſpects the validity of the authority under which the ſame have iſſued and are conſtituted, previous to the erecting and conſtituting of the ſaid Diſtrict of *Newcaſtle* as aforeſaid, and all acts, matters and things which ſhall be lawfully done, under and by virtue of the ſame, in that part of the Province which now forms and conſtitutes the Home Diſtrict, ſo far as reſpects the validity of the authority under which the ſame have iſſued and are conſtituted ſince the ſaid Diſtrict of *Newcaſtle* hath been ſo erected and conſtituted, Juriſdictions, &c. of the Home Diſtrict to ceaſe.

ted, ſhall be held to be valid and good in Law to all intents and purpoſes whatſoever.

Preſent Magiſtrates, &c. reſiding within this Diſtrict to continue,

V. *And be it further Enacted by the Authority aforeſaid*, That his Majeſty's Juſtices of the Peace, and other perſons bearing lawful authority, reſiding within the ſaid Diſtrict of *Newcaſtle*, ſhall hold, enjoy and exerciſe, the like authority, power and juriſdiction within that Diſtrict, at the times and in the manner which they heretofore held, enjoyed and exerciſed within the Home Diſtrict, before the erecting, conſtituting and declaring of the ſaid Diſtrict of *Newcaſtle*, or which is held, enjoyed and exerciſed by his Majeſty's Juſtices of the Peace and other perſons bearing lawful authority in the other Diſtricts of this Province, provided that the authority, power and juriſdiction, heretofore exerciſed by his Majeſty's Juſtices of the Peace and other perſons bearing lawful authority reſiding within the ſaid Diſtrict of *Newcaſtle*, ſhall not in any wiſe be exerciſed or continued within that part of this province now conſtituting the Home Diſtrict, but the ſame within that Diſtrict ſhall from henceforth ceaſe and determine.

But not to have any authority out of it.

Application of Aſſeſſments and Rates.

VI. *And be it further Enacted by the Authority aforeſaid*, That the Aſſeſſments and Rates levied, or to be levied for this current year of our Lord one thouſand eight hundred and two, within the ſaid Diſtrict of *Newcaſtle*, ſhall be applied and expended for like purpoſes within that Diſtrict as they now are, or may be applied and expended under and by virtue of any Act or Acts of Parliament made or to be made in the other Diſtricts of this Province.

CHAP. III.

An ACT *to declare and aſcertain the Rates which the Receiver General ſhall take and retain to his own uſe, out of the Monies paſſing through his hands, which are ſubject to the diſpoſition of the Parliament of this Province.*

[Paſſed July 7th, 1802.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS doubts have ariſen reſpecting the rates which by law the Receiver General is allowed to take and retain to and for his own uſe and benefit, out of the monies at the diſpoſition of the Parliament of this Province, paſſing through his hands; And whereas it is expedient that ſuch doubts ſhould be removed, We, therefore, your Majeſty's moſt dutiful and loyal ſubjects the Commons of *Upper Canada*, in Parliament aſſembled, do moſt humbly beſeech your Majeſty that it may be declared and enacted, and be it declared and enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That out of all and every the ſum and ſums of money at the diſpoſition of the Parliament of this Province, which at any time or times heretofore have been received, paid out and accounted for by his Majeſty's Receiver General, or at any time or times hereafter ſhall or may be received, paid out and accounted for by his Majeſty's ſaid Receiver General for the time being, it ſhall and may

be

be lawful to and for him the ſaid Receiver General to take and retain to and for his own uſe, benefit and emolument, the following rates and allowances, that is to ſay, for every hundred pounds of ſuch monies as aforeſaid, collected within this Province, and by him the ſaid Receiver General received, paid out and accounted for as aforeſaid, three pounds, and ſo in proportion for any greater or leſſer ſum or ſums of ſuch monies, and no more; and for every hundred pounds of ſuch monies as aforeſaid, anſwered by and iſſuing out of the Province of *Lower Canada*, in lieu of, and as a compenſation for ſuch drawbacks as this Province is intitled to claim and have for certain duties impoſed by certain Acts of the Parliament of that Province upon goods, wares and merchandizes coming into this Province, three pounds and ten ſhillings, and ſo in proportion for any greater or leſſer ſum or ſums of ſuch monies as aforeſaid, and no more.

Poundage to the Receiver General.

II. *Provided always, and be it further declared and Enacted by the Authority aforeſaid*, That nothing herein contained ſhall extend or be conſtrued to extend to enable the ſaid Receiver General under any other appellation, title, pretence or colour whatſoever, to take or retain to his own uſe, benefit or emolument any additional or other rate or rates, allowance or allowances, out of the monies and for the ſervices herein before mentioned, other than ſuch as herein before are ſpecified, mentioned and contained, any law, uſage or cuſtom to the contrary in any wiſe notwithſtanding.

The Receiver General not to take any additional allowance.

CHAP. IV.

An ACT *to enable the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, to appoint one or more additional Port or Ports, Place or Places of Entry within this Province, and to appoint one or more Collector or Collectors at the ſame reſpectively.*

[Paſſed July 7th, 1802.]

Preamble.

WHEREAS it is expedient that further proviſion be made for the better collecting and for prevention of the evading of the payment of certain duties impoſed on goods and merchandize brought into this Province from the *United States* of *America*, under and by virtue of a certain Act of Parliament paſſed in the forty-firſt year of his Majeſty's reign, intituled, "An Act for granting to his Majeſty, his heirs and ſucceſſors, to and for the uſes of this Province, the like duties on goods and merchandize brought into this Province from the *United States* of *America*, as are now paid on goods and merchandize imported from *Great Britain* and other places;" Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That it ſhall and may be lawful for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of the ſaid Province, by and with the advice and conſent of the Executive Council thereof, from time to time as occaſion ſhall require, and as to him ſhall ſeem meet, to declare and appoint

Governor, &c. in Council to declare additional Ports of Entry.

appoint by Proclamation or otherwiſe, one or more additional port or ports of entry and clearance, place or places (other than ports) of entry and clearance for all goods and merchandize not being entirely prohibited, and for the payment of all duties liable to be paid on all goods and merchandize brought into this Province from the *United States* of *America*, impoſed and eſtabliſhed by virtue of the above mentioned Act of Parliament paſſed in the forty-firſt year of his Majeſty's reign, and according to the directions of the ſame, and that it ſhall and may be lawful for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, under his hand and ſeal at arms, to nominate and appoint one or more Collector or Collectors at the ſaid additional ports of entry and clearance, and at the place or places (other than ports) of entry and clearance, in like manner as he is now by law authorized to nominate and appoint one or more Collector or Collectors at the reſpective ports of entry and clearance particularly ſpecified in the ſaid laſt mentioned Act.

Governor, &c. to appoint Collectors.

II. *And be it further Enacted by the Authority aforeſaid*, That all and every the powers, directions, rules, emoluments, clauſes, matters and things which in and by the ſaid Act paſſed in the forty-firſt year of his Majeſty's reign were enacted, provided and eſtabliſhed, reſpecting the Collector or Collectors at the reſpective ports of entry and clearance therein mentioned, ſhall be, and are hereby extended to ſuch Collector or Collectors as ſhall be nominated and appointed in manner as aforeſaid by the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, at the ſaid additional port or ports of entry and clearance, or place or places other than ports of entry and clearance, under and by virtue of this Act.

Collectors ſo appointed to have the ſame powers, &c. as other Collectors.

III. *And be it further Enacted by the Authority aforeſaid*, That this Act ſhall be and continue to be in force for three years, and no longer.

CHAP. V.

An ACT *for applying a certain ſum of Money therein mentioned, to make good certain Monies iſſued and advanced by his Majeſty through the Lieutenant Governor, in purſuance of two ſeveral Addreſſes of the Commons Houſe of Aſſembly.* [Paſſed July 7th, 1802.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS in purſuance of an addreſs of your Commons Houſe of Aſſembly to PETER HUNTER Eſquire, Lieutenant Governor of your Province of *Upper Canada*, bearing date on the ſixth day of July, in the forty-firſt year of your Majeſty's reign, the ſum of ſeven hundred and fifty pounds has been iſſued and advanced by your Majeſty through your Lieutenant Governor, to the Commiſſioners nominated and appointed by him your Lieutenant Governor aforeſaid, for carrying into effect the intention of your Majeſty's ſaid Commons to encourage and promote the culture and exportation of Hemp; And whereas in purſuance of a certain other addreſs of your ſaid Commons Houſe of Aſſembly to your Majeſty's Lieutenant Governor aforeſaid, bearing the ſame date as the former, the further ſum of eighty-four pounds and eight-pence has been iſſued and advanced by your Majeſty through your Lieutenant Governor aforeſaid, to the Clerks of the two Houſes of Parliament, as well in ſatisfaction of certain diſburſements of monies made by them the ſaid Clerks in anſwering and diſcharging of certain contingent expences attending the laſt Seſſion of Parliament, as to enable them the ſaid Clerks

to provide a ſupply of Stationary for the future purpoſes of the Parliament; May it therefore pleaſe your Majeſty that it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That out of the ſurplus of any fund or funds ſubject to the diſpoſition of the Parliament of this Province, and collected under the authority of any Act or Acts thereof, now remaining in the hands of the Receiver General unappropriated, there ſhall be iſſued and applied the ſum of eight hundred and thirty-four pounds and eight-pence, to make good the aforeſaid two ſums of money which have ſo as aforeſaid been iſſued and advanced by his Majeſty through his ſaid Lieutenant Governor, in purſuance of the aforeſaid two addreſſes.

834l. 0s. 8d. to be iſſued from the Provincial Treaſury to make good the like ſum paid in purſuance of Addreſſes of the Aſſembly.

II. *And be it further Enacted by the Authority aforeſaid*, That the due application of the ſaid ſum of money, purſuant to the directions of this Act, ſhall be accounted for to his Majeſty, his heirs and ſucceſſors, through the Lords Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as his Majeſty, his heirs and ſucceſſors, ſhall direct.

How to be accounted for.

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

Paſſed in the Third Seſſion of the Third Provincial Parliament of Upper Canada, met at York, on the twenty-fourth day of Jauuary, in the forty-third year of the Reign of our Sovereign Lord GEORGE the Third, and Prorogued on the fifth day of March following.

CHAP. I.

[The Royal Aſſent to this Act, was promulgated by Proclamation bearing date the fourth day of January, in the year of our Lord one thouſand eight hundred and three, and forty-third of his Majeſty's reign.]

An ACT *to allow Time for the Sale of Lands and Tenements by the Sheriff.*

WHEREAS it is expedient, in the preſent circumſtances of this Province, that ſome time ſhould elapſe, after the iſſuing of Proceſs of Execution againſt Lands and Tenements, before the Sheriff proceeds to expoſe the ſame to ſale; Be it enacted by

by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the end of this preſent Seſſion of Parliament, Goods and Chattels, Lands and Tenements, ſhall not be included in the ſame Writ of Execution, nor ſhall any ſuch Proceſs iſſue againſt the Lands and Tenements until the return of the Proceſs againſt the Goods and Chattels.

And be it further Enacted by the Authority aforeſaid, That the Writ againſt the Lands and Tenements ſhall not be made returnable in leſs than twelve months from the teſte thereof, nor ſhall the Sheriff expoſe the ſame to ſale, within leſs than twelve months from the day on which the Writ ſhall have been delivered to him.

CHAP. II.

An ACT *to Explain and Amend an Act, paſſed in the Forty-firſt Year of his Majeſty's Reign, intituled, "An Act for Granting to his Majeſty, his heirs and ſucceſſors, to and for the Uſes of this Province, the like Duties on Goods and Merchandize brought into this Province from the United States of America, as are now paid on Goods and Merchandize imported from Great Britain and other places, and to Provide more effectually for the Collection and Payment of Duties on Goods and Merchandize coming from the United States of America into this Province," and alſo to eſtabliſh a Fund, for the erection and repairing of Light Houſes.*

[Paſſed March 5, 1803.]

Preamble.

WHEREAS the laws at preſent in force, for the ſecuring the due collection and payment of the Duties on goods, wares and merchandize brought into this Province from the United States of *America*, have been found inadequate to the purpoſes for which they were intended, it is therefore become expedient to amend ſuch laws, and to provide additional remedies and ſecurity againſt the evaſion of ſuch duties; Be it therefore Enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, whenever any ſhip or veſſel, from whatever port or place ſhe may have ſailed, containing goods, wares or merchandize, ſhall arrive at any port or ports of entry or clearance in this Province, the cargo or load whereof is intended to paſs by ſuch port or ports without breaking bulk there, in order to paſs to ſome other port or ports of entry in this Province, and there to break bulk; or, in order to paſs through the Province, without breaking bulk, into ſome part or parts of the United States, the Maſter, or other perſon having the charge or command of ſuch ſhip or veſſel, or the Agent or Agents for the proprietor or proprietors of ſuch cargo or load, or the conſignee or conſignees thereof, ſhall forthwith, upon arrival at any port or ports of entry or clearance as aforeſaid, make a report and declaration thereof to the Collector or his Deputy, ſtationed at ſuch port or ports of entry, which report and declaration ſhall ſtate the particulars ſpecified and directed to be contained in the report and declaration which Maſters and Commanders are required to make, by an Act paſſed in the forty-firſt year of his Majeſty's reign, intituled, "An Act for granting to his Majeſty, his heirs and ſucceſſors, to and for the uſes of this Province, the like duties on goods and merchandizes brought into this Province from the United States of *America*, as are now paid on goods and merchandize imported from *Great Britain* and other places," and which report and declaration ſhall be verified upon oath or affirmation, in like manner and under the like pains and penalties as in and by the ſaid Act of this Province directed; and

The Maſter, or other perſon having the command, or the Agent for the Proprietor, or the Conſignee to report.

in caſe ſuch maſter or commander ſhall not intend to break bulk within this Province, then ſuch declaration ſhall ſo ſtate, and ſhall alſo ſtate to what place in the ſaid United States it is intended that ſuch cargo or load ſhall be tranſported or conveyed, and in caſes in which it is intended that ſuch cargo or load ſhall paſs to ſome other port or ports of entry and clearance in this Province, and then break bulk, ſuch declaration ſhall ſtate the particular port or ports, place or places of entry or clearance at which it is intended ſuch bulk ſhall be broken; and as well in thoſe caſes, in which it ſhall be declared, it is intended to break bulk at ſome other port or ports of entry and clearance in this Province, as in caſes in which ſuch declaration ſhall ſtate that it is intended to paſs into, and tranſport and convey ſuch cargo and load into ſome part or parts of the United States, without breaking bulk in this Province, the ſaid Maſter or Commander, or the Agent or Agents of the Proprietor or Proprietors of ſuch cargo or loads, or the Conſignee or Conſignees thereof, ſhall, and he and they is and are hereby required to enter into Bond, in a penalty of double the amount of the Duties with which ſuch cargo or load would, if for conſumption in this Province, be charged or chargeable, which Bond ſhall be conditioned not to break bulk, or ſuffer bulk to be broken, till the arrival of the ſhip or veſſel at the port or place at which ſuch declaration ſhall ſtate that ſuch bulk is intended to be broken, and conditioned alſo for producing the permit herein after mentioned, at every port of entry or clearance at which ſhe ſhall arrive, or through which ſhe ſhall paſs, till ſhe ſhall arrive at her ultimate port or place of deſtination.

What the declaration ſhall contain.

In what caſes Bonds ſhall be entered into.

Condition of Bond.

II. *And be it further Enacted by the Authority aforeſaid*, That after ſuch Bonds ſhall have been ſo given as aforeſaid, it ſhall and may be lawful to and for the ſaid Collector or his Deputy, who has taken ſuch Bond, to give and grant to the Maſter, Owner or Commander of ſuch veſſel, boat, raft or carriage, a Permit to proceed upon his voyage, by virtue of which ſuch Maſter, Owner or Commander, ſhall and may, and he is hereby authorized to proſecute his voyage with the ſaid cargo and loading, and to paſs unmoleſted to the next port or place of entry or clearance, where he ſhall be entitled, in caſe the condition of the ſaid Bond ſhall not have been broken, and his voyage ſhall not be completed, upon preſentation of ſuch Permit as ſhall have been obtained under the authority herein before ſpecified, to demand and receive another Permit, and in like manner ſhall continue to apply for and receive Permits at every place or port of entry or clearance, till he ſhall arrive at his ultimate deſtination, any thing in the ſaid recited Act of this Province, or any other law or uſage to the contrary notwithſtanding. But in caſe any Maſter, Owner or Commander ſhall, after having given ſuch Bond as aforeſaid, land or attempt to land, or cauſe or permit to be landed, any ſuch goods, wares or merchandize as aforeſaid, before the arrival of the veſſel, boat, raft or other carriage, at the port or place of entry and clearance ſtated or mentioned in the ſaid declaration, to be given under the direction of the ſaid recited Act of this Province and this Act, then, and in ſuch caſe, the ſaid goods, wares, and merchandize ſhall be liable to ſeizure and condemnation, in like manner as if no entry had ever been thereof made, by the Maſter, Owner or Commander of the veſſel, boat, raft or other carriage containing the ſame: Provided always nevertheleſs, that nothing herein contained ſhall extend or be conſtrued to extend to prevent or hinder any Maſter, Owner or Commander of any veſſel, boat, raft, or other carriage, from breaking bulk at any port or place of entry or clearance, at which he may arrive, or from landing or unloading part of his cargo, and proceeding further with the remaining part thereof, provided ſuch Maſter, Owner or Commander ſhall firſt pay or ſecure to be paid in manner by this Act and the ſaid recited Act of this Province required, the duties on ſuch part of ſuch cargo ſo to be landed, and procure or obtain the neceſſary Permit and Certificate for landing or permitting the ſame to be landed, from the Collector of the ſaid port or place of entry or clearance, or his Deputy, and provided the ſaid Maſter, Owner or Commander, ſhall in all reſpects comply with, and act in conformity with the requiſitions of the ſaid recited Act of this Province and this Act. Provided alſo nevertheleſs, That the words ſhip or veſſel herein before contained, ſhall not be conſtrued to extend to any batteau, boat, raft, or other craft or carriage, employed for the tranſport of any goods or merchandize from *Lower Canada* to this Province, or which ſhall be only employed in the inland trade of the country

Permit to be granted.

In what caſes Goods, &c. to be forfeited.

To what veſſels the reſtrictions of this Act ſhall not extend.

and ſhall not have arrived from the United States of *America*, nor ſhall this Act extend to compel or oblige the Maſter, Commander or Owner of any ſhip or veſſel bound from any port or place in this Province to *Queenſtown* direct, to make any ſuch report or declaration as aforeſaid, at the port of *Niagara*, unleſs ſuch ſhip or veſſel ſhall caſt anchor at the ſaid port of *Niagara*, and remain there at anchor for the ſpace of two hours, or attempt to land any part of her cargo, or break bulk there. And provided alſo, That whenever any ſhip or veſſel paſſing the port of *Niagara* on her way to *Queenſtown*, ſhall come to an anchor in the intermediate diſtance between the ſaid ports, ſhe ſhall not unlade or break bulk, until the Maſter or Commander of ſuch ſhip or veſſel ſhall have reported as aforeſaid, to the Collector of the port or place of entry then neareſt to where ſuch ſhip or veſſel ſhall then be.

Veſſels bound to Queenſtown direct, not to report at Niagara, unleſs, &c.

III. *And be it further Enacted by the Authority aforeſaid*, That each and every Collector to be appointed under the authority of the ſaid recited Act of this Province, or any other Act now in force in this Province, or to be appointed under any other Act hereafter to be paſſed, ſhall, and he is hereby required, from and after the paſſing of this Act, to render to the Inſpector General of this Province, four times in every year, a juſt, true and faithful account of all duties which have accrued due at the port or place, ports or places of entry and clearance, at which ſuch Collector or his Deputy, or Deputies ſhall be ſtationed, the firſt of which accounts ſhall be delivered in immediately after the paſſing of this Act, and ſhall compriſe all duties which ſhall have accrued due ſince the laſt account rendered up to the Thirty-firſt day of December, now laſt paſt incluſive, and the next account ſhall be delivered in, on or before the Twentieth day of May next, and ſhall compriſe all duties which ſhall have accrued due between the firſt day of January and the thirty-firſt day of March in this preſent year, both days incluſive, and ſo ſhall continue on or before the expiration of forty days next after every ſucceeding three months, to render a like account to the ſaid Inſpector General, which accounts ſhall ſeverally compriſe a faithful ſtatement of all duties paid or ſecured, or which ſhall have accrued due within the periods following (that is to ſay) between the firſt day of January and the laſt day of March, the firſt day of April and the laſt day of June, the firſt day of July and the laſt day of September, and the firſt day of October and the laſt day of December, and that the firſt and laſt days in each of ſuch ſeveral periods of three months, ſhall be included in ſuch ſeveral accounts, and immediately after ſuch accounts ſhall have been ſo reſpectively rendered, paſſed and approved by the ſaid Inſpector General, ſuch Collector ſhall, and he is hereby required to pay the full amount of all the duties which ſhall be ſtated in ſuch accounts to have come to his hands, to his Majeſty's Receiver General of this Province for the time being, and in caſe the ſaid Collector ſhall neglect or refuſe to render his ſaid accounts, or to pay in ſuch duties, in manner herein before required, ſuch Collector ſo neglecting or refuſing, ſhall not be at liberty to retain any part of the per centage allowed to the ſaid Collector, in and by the ſaid recited Act of this Province, but ſhall, and he is hereby required to pay in the full amount of all the duties by him received, or to be received for the three months for which ſuch Collector ſhall neglect or refuſe to render ſuch account, or pay in ſuch monies as hereby required, without any deduction on account of ſuch per centage, or on any other account whatſoever, any thing in the ſaid recited Act of this Province, or this Act, or any other Act, Law or Uſage to the contrary notwithſtanding.

Periods at which accounts are to be rendered.

If accounts not rendered within ſpecified periods, no per centage to be deducted.

IV. *And be it further Enacted by the Authority aforeſaid*, That in all caſes in which the duties by the ſaid recited Act of this Province impoſed, ſhall exceed in amount the ſum of twenty pounds, the ſaid Collector ſhall and may (if required) and he is hereby authorized, in caſe he ſhall deem it meet ſo to do, to accept and take of and from any maſter, commander, or owner of any veſſel, boat, raft, or carriage in which ſhall be contained any goods, wares, or merchandize, which by law are dutiable, a Bond, with one or more ſurety or ſureties, as ſuch Collector or his deputy ſhall judge neceſſary, due regard being had, and a ſound diſcretion uſed, as to the amount of the duties ſo to be

ſecured,

secured, which Bond so to be given, may be in the form hereunto subjoined, and shall be taken in double the amount of the duties intended to be thereby secured, and shall be conditioned for the payment of the full amount of the said duties, at or before the expiration of one month from the time of the arrival of any such vessel, boat, raft, or carriage in the port or place of entry and clearance where she shall break bulk, and where she shall fully or in part discharge and land her cargo or loading; which Bonds so to be taken as aforesaid, or such of them as shall not have been paid and satisfied at the time of delivering in such three month's accounts as aforesaid, the said Collector, and each and every of them, is and are hereby required to insert in, and make part of the then next three month's account, as so much of the duties which have accrued since the previous account rendered and remaining unpaid upon such security as aforesaid.

Where Duties shall not exceed 20l. Bond, may be taken.

V. *And be it further Enacted by the Authority aforesaid*, That from and after the passing of this Act, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, at any time when it shall be found necessary, by and with the advice and consent of the Executive Council thereof, to expend at each, every, or any of the port or ports, place or places of entry and clearance within this Province, such reasonable sum or sums of money out of the proceeds of the duties collected, or to be collected, under the authority of the said recited Act of this Province, or any other Act of the Province, or any future Acts to be passed for the purpose of laying duties on imported goods and merchandize, as shall be deemed sufficient for the purpose of erecting Custom-Houses and Store-Houses, for the storing the goods, wares and merchandize liable to pay such duties as aforesaid, and for the accommodation of the Collector or deputy at such port or ports, place or places of entry and clearance, and for the transacting of all business relative to the collecting and securing the due payment of such duties: Provided nevertheless, That the sums to be expended in any one year on the erection and repairing of Custom-Houses and Stores, shall in no one year exceed one-fourth of the amount of the preceding year's collection of the said duties within this Province.

Governor, with the advice of Executive Council, to erect Custom-Houses, &c.

VI. *And be it further Enacted by the Authority aforesaid*, That in all cases of seizure, under any Act of this Province, when the value of the goods seized shall not exceed twenty pounds, (of which value the said Collector or his deputy is to form a judgment, according to the best of his ability, and to depose to the same on oath, before the Magistrate granting the summons hereinafter mentioned) the seizure shall and may, in a summary way, be proceeded upon, and be examined into, heard, adjudged and determined by the Magistrates in Quarter Sessions assembled, in order whereto, it shall and may be lawful to and for any one of his Majesty's Justices of the Peace within the district, where any such seizure as last mentioned shall be made, to cause the master, commander or owner of any vessel, boat, raft or other carriage, or the person reputed or appearing to be such master, commander or owner, whose goods, wares or merchandize shall be so seized as last aforesaid, to be summoned and appear at the next General Quarter Sessions of the Peace to be holden in and for such district, next after such seizure; And the Magistrates in such Quarter Sessions assembled, are hereby fully authorized, empowered and required, upon the appearance or default of such person or persons so to be summoned, to examine into the cause of such seizure or seizures, and thereupon to proceed to

Cases of seizure under 20l. to be determined in a summary way in Quarter Sessions,

give judgment for the condemnation of ſuch goods, wares or merchandize, as upon due examination ſhall be found to be forfeited, by virtue of the ſaid recited Act of this Province, or this Act, together with the veſſel, boat, raft, or other carriage containing the ſame, and to iſſue out a warrant or warrants for the ſale of ſuch goods, wares and merchandizes ſo to be condemned as laſt aforeſaid, and of the veſſels, boats, rafts, and other craft or carriages containing the ſame, and ſuch ſales ſhall be made accordingly, and all ſuch judgments ſhall be, and are hereby declared to be good, valid and effectual in the law, and final to all intents and purpoſes whatſoever, and not liable to any appeal, or to be removed by any writ or writs of certiorari; and the monies ariſing from ſuch ſales, ſhall be applied in ſuch and the ſame manner as are directed with reſpect to monies ariſing from ſeizures, under the ſaid recited Act of this Province, any law, ſtatute, or proviſion to the contrary thereof in any wiſe notwithſtanding. Provided nevertheleſs, That if any maſter, owner, or commander ſhall be diſſatisfied with the valuation put upon any goods, wares or merchandize ſo to be ſeized as laſt aforeſaid, or ſhall be minded or deſirous that the merits of ſuch ſeizure ſhall be tried and determined in his Majeſty's Court of King's Bench, and will, previous to the Magiſtrates proceeding thereon, enter into a Bond, with a ſufficient ſurety, before the ſaid Magiſtrate, in the penalty of ſixty pounds, conditioned for the payment of all coſts, charges and expences attending the condemnation of ſuch goods, wares and merchandize laſt mentioned, in his Majeſty's ſaid Court of King's Bench, in caſe ſuch condemnation ſhall in ſuch laſt mentioned Court be pronounced; then the ſaid Magiſtrates in Quarter Seſſions aſſembled, ſhall not proceed to hear or decide on the legality of ſuch ſeizure, but ſuch ſeizure and the merits thereof ſhall be heard, determined and decided upon in his Majeſty's ſaid Court of King's Bench, in like manner as other ſeizures above the value of twenty pounds are, by the ſaid recited Act and this Act, directed to be determined. Provided alſo, That in all caſes of ſeizure, where the value of the goods ſeized ſhall not exceed the value of fifty pounds, if the maſter, commander, or owner of the veſſel, boat, raft, or other carriage, ſhall be minded or deſirous that the goods, wares and merchandize ſeized, ſhall not be detained till the condemnation thereof, or the determination of the merits of the ſame, and ſhall ſo ſignify to the Collector or his deputy ſeizing the ſame, and ſhall tender to the ſaid Collector or his deputy a Bond, with ſufficient ſureties, in the penalty of one hundred pounds, conditioned for the payment of the value of ſuch goods to the ſaid Collector or his deputy; in caſe the ſame ſhall be condemned, then and in ſuch caſe it ſhall and may be lawful to and for the ſaid Collector or his deputy, to reſtore ſuch goods, wares and merchandize to the maſter, commander, or owner of the veſſel containing the ſame, without waiting the determination of the merits of the ſaid ſeizure, any thing herein contained to the contrary notwithſtanding. Provided nevertheleſs, That in caſe any diſpute ſhall ariſe reſpecting the value of any ſuch goods, wares and merchandize as laſt mentioned, and the owner, maſter, or commander of the veſſel containing the ſame, will produce before a Magiſtrate, two indifferent and credible witneſſes, who will upon oath declare, that according to the beſt of their judgment, they reſpectively believe that ſuch goods, wares and merchandize, as laſt mentioned, are not of above the value of fifty pounds, ſuch declaration ſhall be final and deciſive as to ſuch value; And if any ſuch witneſs or witneſſes ſhall, in depoſing to the value of any ſuch goods, wares and merchandize

And ſuch determination final;

But owner may, upon giving Bond, have ſuch caſes decided in the King's Bench.

Goods ſeized, may in certain caſes, be re-delivered to the owner upon ſecurity.

Diſputes reſpecting the value of Goods, how to be ſettled.

chandize as laſt mentioned, wilfully or corruptly forſwear him, her, or themſelves, he, ſhe and they, and each of them, ſhall incur all the pains and penalties which by the Criminal Law of England are attached to wilful and corrupt perjury.

Light-Houſes to be erected.

VII. And whereas it will be neceſſary and eſſential to the ſafety of veſſels, boats, rafts and other craft paſſing from Lake Ontario into the River Niagara, and paſſing by the Iſland called Iſle Foreſt, and likewiſe into the Port of York, that there ſhould be a Light Houſe erected near to each of the ſaid laſt mentioned places, Be it therefore enacted by the authority aforeſaid, That in order to provide for the expence of erecting and repairing ſuch Light Houſes, it ſhall and may be lawful to and for the collector or his deputy, at the port to which any veſſel, boat, raft or other craft ſhall arrive next after having paſſed the ſaid Lake into the ſaid River or the ſaid Iſland, or which ſhall come into the port of York, and ſuch collector or his deputy is hereby authorized and required to demand and receive of and from the maſter, commander or owner of each and every ſuch veſſel, boat, raft or other craft, the following rate, that is to ſay, for every veſſel, boat, raft or other craft of the burthen of ten tons and upwards, the ſum of three pence for every ton of which veſſel, boat, raft or other craft is of burthen, and which burthen is hereby required to be computed by ſuch collector or his deputy, and the monies by ſuch tonnage rate accruing, when collected, the ſaid collector is hereby required to pay into the hands of his Majeſty's Receiver General of this Province, at the ſame time he pays the other duties by him collected, and all which ſaid ſums of money ſo to be collected upon the ſaid tonnage, the Governor, Lieutenant Governor, or perſon adminiſtering the government of this Province, is hereby authorized and impowered by and with the advice and conſent of the Executive Council of the Province, to lay out and expend, or cauſe to be laid out and expended, in the erection and keeping in repair, and other incidental charges attending three Light Houſes, one to be erected and built upon the ſouth weſternmoſt point of a certain iſland called Iſle Foreſt, ſituate about three leagues from the town of Kingſton, in the Midland Diſtrict; another upon Miſſiſſagua point, at the entrance of the Niagara River, near to the town of Niagara, and the other upon Gibraltar Point.

Maſters, &c. to pay Tonnage.

Maſters of veſſels paſſing Iſle Foreſt, Miſſiſſagua Point, or Gibraltar Point, to inſert it in their declaration.

VIII. *And be it further Enacted by the Authority aforeſaid*, That in order to aſcertain whether any ſuch veſſel, boat, raft or other craft has paſſed the ſaid Iſland, or the ſaid Miſſiſſagua Point, or Gibraltar Point, each and every owner, commander or maſter of each and every veſſel, boat, raft or other craft, who ſhall paſs ſuch Iſland or Points, or either of them, and arrive at the ports of Kingſton, Niagara or York, is hereby required to inſert it in, or add it to the declaration by the ſaid recited Act of this Province, and this Act required to be made, that he has ſo paſſed the ſaid Iſland, or Miſſiſſagua Point, or Gibraltar Point, and in caſe ſuch owner, commander or maſter, ſhall refuſe to pay the tonnage hereby intended to be impoſed, the collector of the ſaid diſtrict or his deputy, is hereby impowered and required to ſummon ſuch owner, commander or maſter before any one of his Majeſty's juſtices of the peace for the diſtrict, where the ſame ſhall happen, and ſuch magiſtrate is hereby impowered and authorized, in a ſummary way, to hear and determine the complaint to be thereof made by the ſaid collector or his deputy, and if the ſaid juſtice ſhall order payment to be made of the ſaid tonnage according to the rates

rates by this Act impoſed, and the ſaid owner, commander or maſter ſhall not forthwith pay the ſame to the ſaid collector or his deputy, together with the coſts and expences of the ſaid proceeding before the ſaid juſtice, ſuch juſtice is hereby impowered and authorized to iſſue his warrant to levy ſuch tonnage and coſts, by ſale of any part of the cargo contained in any ſuch laſt mentioned veſſel, boat, raft or other craft, or any of the tackle or apparel thereof, or of any other the goods and chattels of the party or parties complained againſt, reſtoring the ſurplus of ſuch monies ariſing from ſuch ſale, if any ſuch ſhall be, to ſuch party or parties, after deducting the ſaid tonnage and the ſaid coſts, and the charges and expences of ſale. Provided nevertheleſs, That no ſuch tonnage ſhall be payable for any veſſel, boat, raft or other craft which by ſtreſs or ſeverity of weather, or other diſaſtrous event, ſhall be compelled to return into the ſame harbour whence ſhe laſt departed, without having perfected her intended voyage. And the ſaid juſtice is hereby authorized to charge, demand and take the following fees for hearing and determining the ſaid complaint, and no more; for his ſummons, two ſhillings; for judgment, two ſhillings and ſix pence; warrant to diſtrain, five ſhillings; for the perſon ſerving the ſummons, two ſhillings; mileage for every mile, four pence; executing warrant of diſtreſs and return thereof, five ſhillings.

Complaints for want of ſuch declaration, to be heard in a ſummary way.

IX. *And be it further Enacted by the Authority aforeſaid*, That in caſe any proceedings ſhall, after the paſſing of this Act be had for the condemnation of any goods, wares or merchandize, or for or in reſpect of any thing done or neglected to be done, contrary to the proviſions of the ſaid recited Act of this Province, or this Act, or of any Act or Acts of this Province now paſſed, or hereafter to be paſſed, reſpecting any duties impoſed, or to be impoſed, upon goods, wares and merchandize coming into this Province from the ſaid United States, that as well in caſes where the goods ſeized ſhall be adjudged to be reſtored, or if condemned, ſhall be inſufficient to pay the coſts and expences of the proceedings had reſpecting the ſame, as in all other caſes, where the proceedings by or againſt the collectors or deputies ſhall be for or on account of any thing done, or omitted to be done, by ſuch collector or deputy, it ſhall and may be lawful to and for the Governor, Lieutenant Governor, or perſon adminiſtering the government of this Province for the time being, and he is hereby impowered and authorized (if he ſhall ſee fit ſo to do) to diſcharge, ſatisfy and pay all ſuch coſts and expences out of any monies which ſhall be then in the hands of his Majeſty's Receiver General of this Province, and which ſhall have ariſen out of any duties impoſed, or to be impoſed, on any goods, wares and merchandize coming from the ſaid United States, and the ſaid Receiver General is hereby required to pay and diſcharge all ſuch warrant and warrants as ſhall for ſuch purpoſes be iſſued by the ſaid Governor, Lieutenant Governor, or perſon adminiſtering the government of this Province for the time being.

How coſts of any proceedings are to be paid.

X. *And be it further Enacted by the Authority aforeſaid*, That the Governor, Lieutenant Governor, or perſon adminiſtering the government of this Province for the time being, be, and he is hereby authorized to eſtabliſh the office of the collector of the Diſtrict of Newcaſtle, in any place within the harbour of Newcaſtle, which he may judge more convenient than the town of Newcaſtle, until a Gaol and Court Houſe be erected in the ſaid Town, and no longer.

Office of the Collector for the Port of Newcaſtle, to be within the Harbour.

Provided

Provisions of former Acts ot to be varied, unless, &c.

Provided always, That nothing herein contained shall extend, or be construed to extend, to repeal or vary all or any of the provisions contained in the said recited Act of this Province, or any other Act of this Province, unless in so far as such provisions are and will be necessarily varied by the provisions in this Act contained, in order to give due force and effect to this Act, and no further. Provided nevertheless, That nothing in any part of this Act contained, shall extend, or be construed to extend, to any ship or vessel, boat, raft, canoe or other craft or carriage, now belonging, or which may at any time hereafter belong to our Sovereign Lord the King, his heirs or successors: Any thing herein contained to the contrary notwithstanding.

FORM OF THE BOND herein mentioned.

Bond,

KNOW ALL MEN BY THESE PRESENTS, *that we A. B. C. D. and E. F. are held and firmly bound to our Sovereign Lord the King, his heirs and successors, in the sum of for which payment to be well and faithfully made, we bind ourselves, and each of us by himself, for the whole, our and each and every of our heirs, executors and administrators firmly by these presents, sealed with our seals, dated the day of in the year of his Majesty's reign, and in the year of our Lord*

The condition of this obligation is such, that if the above bounden A. B. C. D. and E. F. or any or either of them, do and shall well and truly pay or cause to be paid to our said Sovereign Lord the King, his heirs and successors, the sum of on or before the day of next, then this Obligation to be void, or else to remain in full force.

CHAP. III.

An ACT *to authorize the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to Licence Practitioners in the Law.*

[Passed the 5th of March, 1803].

Recital.

WHEREAS, great inconvenience has arisen, and is now experienced by his Majesty's subjects in several parts of this Province, from a want of a sufficient number of persons duly authorized to practice the profession of the Law, and unless the number can be speedily increased, justice will in many places be with great difficulty administered: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to authorize by licence under his hand and seal, such and so many of his Majesty's liege subjects, not exceeding six in the whole, as he from their probity, education and condition in life shall deem fit and proper to practice the profession of the Law in this Province; and that upon producing every such licence to the Clerk of the Crown and Pleas in this Province, the name of such person so licenced shall be inscribed on the roll of Attornies of the Court of King's Bench, and each and every person whose name shall be so inscribed, shall,

Governor, &c. authorized to licence six persons to practice the profession of the Law.

ſhall, after having been admitted a member of the Law Society in manner hereinafter mentioned, be authorized to practice the profeſſion of the Law, as fully to all intents and purpoſes as any Barriſter and Attorney now practices the ſame in this Province.

Before any perſon applies to the Governor, &c. ſuch perſon ſhall procure a certificate from the Court of King's Bench.

II. Provided always nevertheleſs, That before any perſon ſhall apply to the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, for ſuch licence as aforeſaid, ſuch perſon ſhall apply to the Judges of his Majeſty's Court of King's Bench, and ſhall procure from that Court a certificate, under the hand of the Chief Juſtice, or in his abſence, of the ſenior puiſne Judge of the ſaid Court, that ſuch Court is ſatisfied of the ability and fitneſs of the party ſo applying to be admitted to practice as a Barriſter and Attorney in this Province.

After inrollment of any perſon under this Act, he is to ſubſcribe the rules of the Law Society, and the Society to admit him a member.

III. Provided alſo, and be it further Enacted, That from and after the inrollment of any ſuch perſon or perſons under the authority of this Act, he ſhall offer himſelf to the Law Society of this Province, and ſhall offer to ſubſcribe and conform to the exiſting rules and regulations of the ſaid Society, and ſuch Society is hereby required to admit him a member of the ſame.

Fees to the Governor's Secretary and Clerk of the Crown.

IV. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for the Secretary of the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, to demand and receive the ſum of two pounds, on the delivery of each and every ſuch licence as aforeſaid, and for the ſaid Clerk of the Crown and Pleas to demand and receive the ſum of thirteen ſhillings and four-pence, for inſcribing the name of each and every perſon ſo licenced upon the ſaid roll.

CHAP. IV.

An ACT *to declare the rights of certain Grantees of Waſte Lands of the Crown.*

[Paſſed 5th March, 1803.]

Recital.

WHEREAS ſeveral grants of Waſte Lands of the Crown did, previous to the firſt day of July, in the year of our Lord one thouſand eight hundred, paſs the Great Seal of this Province, to two or more perſons and their heirs; and whereas it was his Majeſty's gracious intention, and alſo the underſtanding of the Grantees, that ſuch perſons ſhould hold their lands under ſuch grants as tenants in common; but ſuch grants were erroneouſly ſo drawn and iſſued as to convey to the grantees eſtates in joint tenancy; and whereas the rights of many perſons may be thereby affected, and the gracious intention of his Majeſty fruſtrated, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That all Grants of the Waſte Lands of the Crown, which, previous to the ſaid firſt day of July, in the year of our Lord one thouſand eight hundred, paſſed the Great Seal of this Province to two or more perſons and their heirs, ſhall, from and after the day of the date of ſuch Grants reſpectively, be taken and conſtrued in all Courts of Law and Equity,

Grants to two or more perſons and their heirs, to be conſtrued to operate as giving eſtates in common, unleſs expreſſed in

to

to enure and operate as giving to the ſeveral Grantees eſtates in common, and not in joint tenancy, unleſs it ſhall be diſtinctly expreſſed or declared in the ſaid grant, that ſuch lands were to be held by, or to the uſe of ſuch grantees as joint tenants, any law to the contrary notwithſtanding.

ſuch grant to be to the uſe of ſuch grantees as joint tenants.

II. Provided always nevertheleſs, and it is hereby declared, That nothing herein contained ſhall extend or be conſtrued to extend to impeach, or in any manner to affect the rights of any bona fide purchaſer, mortgagee, or other incumbrancer, for valuable conſideration; provided ſuch purchaſers, mortgagees, or other incumbrancers can ſhew their right, claim, or title to have veſted previous to the paſſing of this Act.

The rights of purchaſers, mortgagees, &c. not to be impeached.

CHAP. V.

An ACT *to enable Married Women having Real Eſtate, more conveniently to alien and convey the ſame.*

[Paſſed the 5th of March, 1803.]

WHEREAS, by the laws of England, married women can only alien and convey their real eſtates by fine, or other matter of record, and there being as yet, no expreſs proviſion made for levying fines in this Province, it has become expedient that ſome mode of conveyance ſhould be by law adopted, to enable ſuch married women to alien their ſaid real eſtates; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the firſt day of April, in this preſent year one thouſand eight hundred and three, it ſhall and may be lawful to and for any married woman having real eſtate in this Province, and being above the age of twenty-one years, with the knowledge and conſent of, and by any Deed or Deeds jointly with her huſband, to alien, depart with, and convey the ſame to ſuch uſe and uſes as to her and her ſaid huſband ſhall ſeem meet, which conveyance ſhall be as valid and effectual in the law, to all intents and purpoſes, as if ſhe were ſole, any law or uſage to the contrary notwithſtanding.

Recital.

It ſhall be lawful for any married woman having real eſtate, by deed, jointly with her her huſband, to alien, &c.

II. Provided nevertheleſs, and it is hereby declared, That nothing in ſuch Deed contained, ſhall have any force or effect to bar ſuch married woman or her ſaid huſband, or her heirs, during the continuance of the coverture, or after the diſſolution thereof, or ſhall be held to have any force or effect whatſoever, unleſs ſuch married woman ſhall appear in open Court, in the Court of King's Bench, or before any Judge thereof at his Chambers, or before a Judge of Aſſize, at the Sittings for the Home Diſtrict, or on his Circuit, and be examined by the ſaid Court or Judge, touching her conſent, and ſhall freely and voluntarily, and without coercion, give her conſent, before ſuch Court or Judge, to alien and depart with ſuch eſtate, nor unleſs ſuch examination ſhall take place within ſix months from the time of the execution of ſuch Deed of Conveyance as herein before ſtated.

Such married woman to be examined in open Court, touching her conſent.

III. *And be it further Enacted by the Authority aforeſaid*, That in caſe it ſhall appear to the ſaid Court or Judge, that ſuch married woman doth fully and freely conſent to depart with, alien and convey her ſaid real eſtate, without co-

The Court or Judge to cauſe a Certificate of ſuch married

 ercion,

woman's conſent, to be endorſed on the deed.

ercion, or fear of coercion on the part of her huſband, or any other perſon, it ſhall and may be lawful for ſuch Court or Judge, and they are reſpectively hereby required, to cauſe a certificate thereof to be endorſed on the Deed ſo executed by her and her ſaid huſband as aforeſaid, which certificate ſhall ſtate the day on which ſuch examination is taken, and ſhall be ſigned by the Chief Juſtice, or in his abſence by the ſenior puiſne Judge of the ſaid Court, or by the ſaid Judge before whom the ſame ſhall be taken at the ſaid Sittings, or on the Circuit, or at Chambers, for which Certificate the Clerk of the Crown, when the examination ſhall be taken in term time, ſhall be intitled to demand and receive the ſum of five ſhillings, and no more, and when taken by a Judge during the Sittings, or upon the Circuit, or at Chambers, the Judges Marſhall ſhall be entitled to demand and receive the like ſum of five ſhillings, as a fee for ſuch Certificate.

Fees for ſuch Certificate.

Such deeds to have no other force or effect than they would have had in caſe ſuch married woman had been ſole.

IV. Provided alſo, and it is hereby further Enacted by the Authority aforeſaid, That nothing in this Act contained ſhall be taken or conſtrued to give to ſuch Deeds ſo executed as aforeſaid, ſo far as relates to the married woman or the intereſts of herſelf, or thoſe claiming under her, any greater or other force or effect, than the ſame would have had in caſe ſuch married woman had been ſole at the time of executing the ſame.

CHAP. VI.

An ACT *for further altering and amending an Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to Encourage the Deſtroying of Wolves and Bears in different parts of this Province."*

[Paſſed the 5th of March, 1803.]

Recital.

TO encourage more effectually the deſtroying of Wolves, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, ſo much of an Act paſſed in the thirty-third year of his Majeſty's reign, intituled, "An Act to encourage the deſtroying of Wolves and Bears in different parts of this Province," as provides that the ſaid Act ſhall not extend, nor be conſtrued to extend to the Weſtern Diſtrict of this Province, nor have any force or operation whatſoever therein, be repealed, and the ſame is hereby repealed accordingly.

So much of former Acts repealed as relates to the Weſtern Diſtrict.

Certificate to be a lawful tender for Diſtrict aſſeſſment.

II. *And be it further Enacted by the Authority aforeſaid*, That each and every certificate granted in purſuance of the ſaid laſt recited Act, for having deſtroyed a Wolf or Wolves, ſhall be a lawful tender to the full value and amount therein ſpecified, for and towards the diſcharge of any Diſtrict rate or aſſeſſment, to be collected of, or from any perſon or perſons within the Diſtrict wherein ſuch Wolf or Wolves ſhall have been deſtroyed, and ſhall accordingly as ſuch be accepted and taken as equivalent to ſo much of the current gold or ſilver coin of this Province, by the Collector of each and every Townſhip within ſuch Diſtrict reſpectively throughout this Province, and as ſuch ſhall,

and

and may by each and every Collector reſpectively, be paid and delivered over to the Diſtrict Treaſurer, by whom the ſame ſhall in like manner be taken and accepted as a lawful tender, and as equivalent to ſo much of the aforeſaid current coin of the Province.

When Certificate preſented to the Treaſurer, he is forthwith to pay the ſame, if he has funds in his hands, if he has not, &c.

III. *And be it further Enacted by the Authority aforeſaid*, That when and ſo often as any perſon or perſons poſſeſſed of any ſuch certificate as aforeſaid, ſhall preſent the ſame to the Treaſurer of the Diſtrict wherein ſuch Wolf or Wolves ſhall have been deſtroyed, he the ſaid Treaſurer ſhall forthwith pay and ſatisfy the bounty to which ſuch certificate ſhall intitle the perſon or perſons preſenting the ſame, provided the Diſtrict fund in his hands at the time, do enable him ſo to do; and if the Diſtrict fund in his hands at the time do not enable him the ſaid Diſtrict Treaſurer to pay and ſatisfy ſuch bounty forthwith, then and in ſuch caſe, he the ſaid Diſtrict Treaſurer ſhall pay and ſatisfy the ſame out of the firſt monies of the Diſtrict which ſhall next thereafter come into his hands.

CHAP. VII.

An ACT *to repeal for a limited time, part of an Act paſſed in the thirty-fourth year of his Majeſty's reign, intituled,* "*An Act for the regulation of Juries.*"

[Paſſed 5th March, 1803.]

Recital.

WHEREAS the regular adminiſtration of public juſtice within the Home Diſtrict has in ſome inſtances been retarded, by reaſon of the incapacity of the Sheriff to ſummon and return the neceſſary number of Jurors, in obedience to his Majeſty's writs to him for that purpoſe directed, without ſubjecting himſelf to ſuch penalties as by law might have been inflicted upon him, for ſummoning and returning perſons to ſerve on trials who have ſerved thereat within one year before, for remedy thereof, Be it Enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, ſo much of an Act paſſed in the thirty fourth year of his Majeſty's reign, intituled, "An Act for the regulation of Juries," as enacts, That for preventing abuſes by Sheriffs, Bailiffs, or other Officers concerned in the ſummoning and returning of Jurors, no perſon or perſons ſhall be returned as a Juror or Jurors to ſerve on trials at any Aſſizes or Niſi Prius, Quarter Seſſions or Diſtrict Court, who have ſerved thereat within the ſpace of one year before; and that if any ſuch Sheriff ſhall wilfully tranſgreſs therein, any Judge, or Juſtice of Aſſize or Niſi Prius, may, and is thereby required, on examination and proof of ſuch offence, in a ſummary way, to ſet a fine or fines upon every ſuch offender as he ſhall think meet, not exceeding the ſum of ten pounds for any one offence, ſhall, with reſpect to the Sheriff, Coroner, Bailiffs and other Officers concerned in the ſummoning and returning of Jurors within the Home Diſtrict aforeſaid, be repealed, and the ſame is hereby repealed accordingly.

II. *And be it further Enacted by the Authority aforeſaid*, That this Act ſhall be, and continue to be in force for and during four years, and from thence until the end of the Seſſion of Parliament then next immediately enſuing, and no longer.

CHAP. VIII.

An ACT *to authorize the Attorneys now Practicing, or hereafter to be duly admitted to Practice, to take ſuch number of Clerks as therein mentioned.*

[Paſſed 5th March, 1803.]

Preamble.

BE it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*,

conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, it ſhall and may be lawful to and for all and every perſon and perſons now practicing the profeſſion of the Law as Attorneys in this Province, or who ſhall hereafter be duly authorized to practice as ſuch, to take and have two Clerks at one time, and no more, ſave and except with reſpect to his Majeſty's Attorney and Solicitor General, each of whom is hereby authorized to take three Clerks, and no more, any former law, uſage or regulation to the contrary notwithſtanding.

Every Attorney may take two Clerks at one time and no more.

The Attorney and Solicitor General may take three and no more.

CHAP. IX.

An ACT *for the better ſecuring to his Majeſty, his Heirs and Succeſſors, the due Collection and Receipt of certain Duties therein mentioned.*

[Paſſed 5th March, 1803.]

WHEREAS the regulations and uſages which have heretofore been eſtabliſhed and hitherto obſerved in the iſſuing of licences to perſons to ſell by retail, wine and ſpirituous liquors, or to uſe and employ ſtills for the diſtillation of ſpirituous liquors, have been found dilatory and circuitous, and thereby injurious to his Majeſty's revenue ariſing therefrom, for remedy thereof, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the fifth day of April now next enſuing, ſuch parts and ſo much of five ſeveral Acts, which heretofore have paſſed in the Parliament of this Province, that is to ſay, an Act paſſed in the thirty third year of his Majeſty's reign, intituled, "An Act to eſtabliſh a further fund, for the payment of the ſalaries of the Officers of the Legiſlative Council and the Houſe of Aſſembly, and for defraying the contingent expences thereof;" an Act paſſed in the thirty fourth year of his Majeſty's reign, intituled, "An Act to lay and collect a duty upon ſtills;" an Act paſſed in the ſame thirty-fourth year of his Majeſty's reign, intituled, "An Act for regulating the manner of licencing public houſes, and for the more eaſy convicting of perſons ſelling ſpirituous liquors without licence;" an Act paſſed in the thirty-ſixth year of his Majeſty's reign, intituled, "An Act to amend an Act, intituled, "An Act for regulating the manner of licencing public houſes, and for the more eaſy convicting of perſons ſelling ſpirituous liquors without licence;" and an Act paſſed in the thirty-ſeventh year of his Majeſty's reign, intituled, "An Act to encreaſe the revenue, and to compel the accounting more regularly for the ſame to the Treaſurer of the Province," as regard, or in any wiſe reſpect the Secretary of the Province, his agents or deputies, or any of them, or which authorize the ſaid Secretary, his agents or deputies, or any of them, to receive, diſtribute, or account for any licence or licences, iſſued by the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government for the time being, for the purpoſes and to the intents in the ſaid ſeveral five laſt recited Acts, or in any of them mentioned and contained, or which require or direct any application or written requiſition to be made to the ſaid Secretary, his deputies or agents, or any of them, touching, or in any wiſe concerning any purpoſe, matter or thing in ſuch Acts, or any of them, contained, ſhall ceaſe and determine, and ſhall be, and the ſame are hereby ſeverally and reſpectively repealed accordingly.

Repeal of former Acts.

II. *And*

Inſpectors to be appointed in each Diſtrict.

II. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful, from time to time, and all times hereafter during the continuance of this Act, to and for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government in this Province for the time being, by an inſtrument in writing under his hand and ſeal, to authorize, commiſſion and appoint, during pleaſure, in each and every Diſtrict in this Province, ſome fit and diſcreet perſon to be Inſpector, who ſhall, in the Diſtrict for which he ſhall be ſo appointed, ſuperintend, collect and account for (as herein after provided) his Majeſty's revenue, ariſing from and by ſuch licence or licences, as from and after the ſaid fifth day of April now next enſuing, ſhall and may at any time or times thereafter, iſſue to any perſon or perſons within the Diſtrict in which ſuch perſon ſhall be ſo appointed Inſpector to or for any of the purpoſes, ends or intents in the ſaid laſt five recited Acts, or in any one of them mentioned or contained, which Inſpectors, when ſo authorized, commiſſioned and appointed as aforeſaid, ſhall ſeverally, within their reſpective Diſtricts, have, hold, and poſſeſs all and ſingular the powers and authorities, and ſhall, and are hereby ſeverally required to exercile, perform and fulfill, all and ſingular the duties required of or impoſed upon the ſaid Secretary of the Province, his deputies or agents, or any of them, by any of the ſaid laſt five recited Acts, except ſo far as ſuch duties are varied, or are otherwiſe provided for by this Act.

Mode of obtaining Licences.

III. *And be it further Enacted by the Authority aforeſaid,* That in all caſes not otherwiſe provided for in and by this Act, each and every perſon deſirous of obtaining a licence or licences, under the proviſions of the ſaid laſt five recited Acts, or any of them, ſhall, under the reſpective reſtrictions and penalties therein ſeverally ſpecified and contained, and in manner and form therein and thereby reſpectively directed, make ſuch application, and in and by a written requiſition, furniſh ſuch ſpecification to the Inſpector of the Diſtrict wherein any ſuch applicant may be deſirous of being licenced, as in and by any of the ſaid Acts it is ſpecified, directed and provided to be made or done to the ſaid Secretary, his agents or deputies, or any of them.

Inſpectors to aſcertain perſons ſelling Wine or Spirits without licence or uſing Stills without licence, or larger Stills than thoſe licenced, and to proceed againſt offenders.

IV. *And be it further Enacted by the Authority aforeſaid,* That it ſhall be the duty of each and every Inſpector to be appointed under and by virtue of this Act, in the Diſtrict in which he ſhall reſide, and each and every of them is hereby required to aſcertain by every means in his power, whether there is or are any perſon or perſons in ſuch Diſtrict, who ſell, vend, or barter, directly or indirectly, any wine or ſpirituous liquors by retail without a licence, or who ſhall have in his, her or their poſſeſſion any ſtill or ſtills, uſed in diſtilling any ſpirituous liquors, without licence for ſo doing, or whether any perſon or perſons having received a licence for any ſtill or ſtills, do make uſe of any ſtill or ſtills other than ſuch as ſhall have been ſo licenced, or ſhall uſe any ſtill or ſtills of greater capacity than ſuch as ſhall have been ſpecified by the perſon or perſons uſing the ſame to the ſaid Inſpector, and if it ſhall appear to the ſaid Inſpector that there is, or are any ſuch perſon or perſons ſelling any wine or ſpirituous liquors without licence by retail, or ſhall have in his, her or their poſſeſſion, and ſhall uſe any ſtill or ſtills without licence, or ſhall uſe any larger ſtill or ſtills than ſuch as ſhall have been licenced as aforeſaid, the ſaid Inſpector is hereby authorized and required to proceed againſt ſuch offender or offenders, in the ſame manner and form as any complainant is directed in the before recited Acts, or any of them, and ſuch offender or offenders ſhall be convicted in the ſame manner and form, and be ſubject to the ſame pains and penalties, as directed and impoſed by the ſaid before recited Acts, or any of them, and the ſaid penalty and penalties ſo inflicted or impoſed, ſhall be diſpoſed of and paid in the ſame manner as directed and required by the ſaid Acts, or any of them.

Inſpector of the Diſtrict to render account to the Inſpector General of the Province

V. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful to and for each and every Inſpector, and he is hereby required to render a juſt, true and faithful account of all monies which he ſhall collect and receive under and by virtue of this Act, to the Inſpector General of this Province, once in every three months; and ſuch Inſpector ſhall twice in every year, pay or cauſe to be paid into the hands of the Receiver General of this Province, all ſuch monies as he ſhall ſo receive,

At ſtated times.

ceive, that is to ſay, once on or before the firſt of October, and once on or before the firſt day of April.

Allowance to the Inſpector of the Diſtrict.

VI. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for each and every Inſpector, out of all and every the ſum or ſums of money which under and by virtue of this Act he ſhall collect, receive and account for, from any perſon or perſons to be licenced to ſell or diſtill any ſpirituous liquors under and by virtue of the before recited Acts, or any of them, to take and retain, over and above ſuch ſum or ſums of money as is, or are herein after allowed him, to his own uſe and benefit, a ſum not exceeding ten pounds for every hundred pounds which he ſhall ſo collect, receive and pay, or cauſe to be paid, into the hands of the Receiver General of the Province, as herein before directed, and ſo in proportion for every greater or leſſer ſum.

Inſpector of each Diſtrict to take

VII. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for, and each and every Inſpector who ſhall be appointed under and by virtue of this Act, is hereby required, before he ſhall enter upon the execution of his ſaid office, to take and ſubſcribe the following Oath, which Oath ſhall be taken before any two of his Majeſty's Juſtices of the Peace in and for the Diſtrict in which ſuch Inſpector ſhall be ſo appointed, who are hereby authorized and required to adminiſter the ſame, and to tranſmit a certificate of ſuch Inſpector having taken ſuch Oath before them, to the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province for the time being.

Oath.

"*I* A. B. *do ſwear on the Holy Evangeliſts of Almighty God, that I will* "*well and truly execute, do and perform the duty of Inſpector of his Majeſty's* "*revenue ariſing from ſhop, tavern and ſtill licences, and will duly and impar-* "*tially ſuperintend the collection thereof, according to the beſt of my ſkill and* "*knowledge, and in all caſes of fraud, or ſuſpicion of fraud, that ſhall come to* "*my knowledge, I will ſpare no perſon from favor or affection, nor will I ag-* "*grieve any perſon from hatred or ill will, and that I will in all caſes faith-* "*fully do, execute and perform, to the beſt of my ſkill and knowledge, all and* "*every the duties impoſed upon me by an Act paſſed in the Provincial Parlia-* "*ment, in the forty-third year of his Majeſty's reign, intituled, "An Act for* "*the better ſecuring to his Majeſty, his Heirs and Succeſſors, the due collection* "*and receipt of certain duties therein mentioned.*"

Inſpector of the Diſtrict to give ſecurity.

Provided always, and be it further Enacted by the Authority aforeſaid, That no Inſpector to be appointed under and by virtue of this Act, ſhall enter upon the execution of his office, until he ſhall have given ſecurity by two ſureties, in two hundred and fifty pounds each, and himſelf in five hundred pounds, to his Majeſty, his Heirs and Succeſſors, for the due performance of his office.

Fees to the diſtrict Inſpector.

VIII. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for each and every Inſpector to be appointed under and by virtue of this Act, and he is hereby allowed to demand and to take the following Fees:—For filing every requiſition for a ſtill licence, one ſhilling and three pence;—For iſſuing the licence, two ſhillings and ſix-pence;—For filing ing the certificate of the Magiſtrates and Clerk of the Peace, to the perſon requiring tavern licence, one ſhilling and three-pence;—For iſſuing the licence, two ſhillings and ſix-pence;—For iſſuing a ſhop licence, two ſhillings and ſix-pence. Any thing contained in the ſaid before recited Acts, or any of them, or in any other law, uſage or regulation, to the contrary in any wiſe notwithſtanding.

Fee to the Lieutenant Governor's Secretary.

IX. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the Secretary of the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, to demand and take the ſum of forty ſhillings, on delivery of each and every commiſſion granted under and by virtue of this Act.

X. *And*

X. *And be it further Enacted by the Authority aforesaid,* That this Act shall be and continue to be in force for and during two years, and from thence to the end of the then next ensuing Session of Parliament, and no longer. Cont nuance of this Act.

CHAP. X.

An ACT *to extend the Provisions of an Act passed in the thirty-fourth year of his Majesty's reign, intituled, "An Act to restrain the custom of permitting Horned Cattle, Horses, Sheep and Swine to run at large."*

[Passed the 5th of March, 1803.]

BE it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That whenever any horses, cattle, sheep or swine, taken damage feasant, or running at large contrary to law, shall be impounded in the pound of any township, parish or place, it shall be the duty of the pound-keeper to feed the same, for doing which he shall be intitled to an allowance over and above his fees as pound-keeper, which allowance shall be from time to time regulated by the Justices in Quarter Sessions. Whenever any horses, cattle, sheep or swine taken, they may be impounded, &c.

II. *And be it Enacted by the Authority aforesaid,* That in all such cases, the pound-keeper, within forty-eight hours after the distress shall have been impounded, shall cause a notice thereof in writing to be affixed in three of the most conspicuous and frequented parts of the township, parish or place, which notice shall give a description of such distress, and specify when and where the said distress was intended to be sold; and if the owner of such distress, or some person on his behalf, shall not, within fifteen days after such notice shall have been so affixed, redeem the same by paying the charges of the pound-keeper, and also by paying or tendering the damages or penalty, if any, at the place where the pound is kept, it shall and may be lawful to and for such pound-keeper to cause such distress, or so much of the said distress to be sold, and after deducting in the first place his own charges, to pay the damages or penalty, if any, to the person intitled thereto, and after payment of such charges, damage or penalty, to return the surplus, if any, to the owner. The Pound-keeper within 48 hours to give notice of sale, &c.

III. *And be it further Enacted by the Authority aforesaid,* That if the owner of any distress, or some person on his behalf, shall not appear, or shall dispute the amount of the damages claimed, it shall and may be lawful for the pound-keeper to apply to some neighbouring Justice of the Peace, who is hereby authorized and required forthwith to summon three freeholders, to whom he shall administer an oath well and truly to assess the damages, and where the said freeholders shall not agree, the determination of the majority of them shall be conclusive as to such damages. Provided nevertheless, That nothing herein contained shall be construed or taken to restrain the owner of the distress from instituting any suit or suits in consequence of any distress or distresses to be made under the authority of this Act, in which nothing shall be tried or called in question, except the legality of taking or impounding such distress or distresses. If the owner of any distress shall not appear, justices to summon free holders to assess damages, &c.

IV. *And be it Enacted by the Authority aforesaid,* That from and after the first day of May next, it shall not be lawful for any person or persons residing in the several towns of *York, Niagara, Queenston, Amherstburgh, Sandwich, Kingston*, or *New Johnstown*, to have any swine going at large in the said towns; and if any swine belonging to any such person or persons, shall be found at large in any of the towns aforesaid, such person or persons shall for every such swine forfeit and pay the sum of ten shillings, to and for the use of his Majesty, his heirs and successors, to be accounted for unto his said Majesty through the Commissioners of his Majesty's Treasury, for the time being, in such manner and form as his Majesty shall direct, to be recovered in a summary way, before any one of his Majesty's Justices of the Peace, either upon the confession of the Swine not to go at large, in York, Niagara, Queenstown, Amherstburgh, Kingston, or New johnstown.

the party complained of, or upon the oath of one credible witneſs, which ſum after the party ſhall be ſo convicted, ſhall be levied by diſtreſs and ſale of the offender's goods and chattels, returning the overplus, if any ſhall ariſe upon ſuch ſale, to the party complained of, after deducting the ſaid ſum of ten ſhillings, and the charges of the ſale.

CHAP. XI.

An ACT *the more conveniently to collect the Compenſation to the Members of the Houſe of Aſſembly for their attendance in their Duty in Parliament, and to repeal part of an Act paſſed in the Parliament of this Province in the thirty-third year of his Majeſty's reign, intituled, "An Act to authorize and direct the laying and collecting of Aſſeſſments and Rates within this Province, and to provide for the payment of Wages to the Houſe of Aſſembly."*

[Paſſed 5th of March, 1803.]

Preamble.

WHEREAS the preſent mode of Aſſeſſment for making compenſation to the Members of the Houſe of Aſſembly for their attendance in their duty in Parliament, is found to be inconvenient; for the more eaſy collection and payment of the ſame, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That after every prorogation and diſſolution of the Aſſembly of this Province, it ſhall and may be lawful for every Member thereof, having attended, to receive from the Speaker of the Houſe of Aſſembly a warrant under his hand and ſeal, ſignifying the time that ſuch Member hath attended his duty in the ſaid Aſſembly; and every Member poſſeſſed of ſuch warrant, ſhall and may aſk and demand of the Juſtices of the Peace for the diſtrict in which the County or Riding repreſented by ſuch Member may be ſituate, in their General Quarter Seſſions aſſembled, a ſum not exceeding ten ſhillings per day, for every day that the ſaid Member ſhall have been engaged in the attendance of his duty in the Houſe of Aſſembly, and have been neceſſarily abſent from his place of abode in going to, or returning from his attendance; which ſum it ſhall or may be lawful for the ſaid Juſtices to levy, by aſſeſſment to be made on each and every inhabitant houſeholder in the ſeveral pariſhes, townſhips, reputed townſhips, or places within the County or Riding repreſented by ſuch Member, in the ſame manner and form as by law any aſſeſſment may now or hereafter be levied, for any public purpoſe in any diſtrict in this Province; and for the ſaid Juſtices to iſſue their order upon the Treaſurer of the diſtrict to pay the amount of the ſum to which any ſuch Member may be intitled, out of the monies which may come into his hands, under and by virtue of any Act of the Provincial Parliament. And it ſhall and may be lawful to and for each and every Member, who may now or hereafter repreſent part of two or more diſtricts, to aſk and demand from the Speaker of the Houſe of Aſſembly, who is hereby authorized and required to grant the ſame, a Warrant, directed to the Juſtices in General Quarter Seſſions aſſembled, of each of the ſaid diſtricts, which the ſaid Member ſhall ſo repreſent, which Warrant ſhall ſpecify the ſum that each diſtrict is liable to pay, and the Juſtices thereof reſpectively, are hereby required to cauſe the ſum ſpecified in ſuch Warrant to be collected and paid to the ſaid Member, in manner and form as herein before directed.

Every Member having attended to receive from the Speaker a warrant,

And may demand of the juſtices a ſum not exceeding 10s. per day,

Which ſhall be levied by aſſeſſment.

Where any Member repreſents two or more Diſtricts, he may demand a warrant directed to the juſtices of each diſtrict.

II. *And be it further Enacted by the Authority aforeſaid*, That the thirtieth clauſe of an Act paſſed in the Parliament of this Province, in the thirty-third year of his Majeſty's, intituled, "An Act to authorize and direct the laying and collecting of Aſſeſſments and Rates within this Province, and to provide for the payment of Wages to the Houſe of Aſſembly," ſhall be, and the ſame is hereby repealed.

Thirtieth clauſe of former Act repealed.

CHAP. XII.

CHAP. XII.

An ACT *particularizing the Property, real and perſonal, which, during the continuance thereof, ſhall be ſubject to Aſſeſſments and Rates, and fixing the ſeveral Valuations at which each and every particular of ſuch Property ſhall be Rated and Aſſeſſed.*

[Paſſed 5th March, 1803.]

Preamble.

WHEREAS the preſent mode of laying aſſeſſments has been found inconvenient, Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, intituled, "An Act to repeal certain parts of an Act paſſed in the fourteenth year of his Majeſtys 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, and by the authority of the ſame, That from and after the firſt Monday in the month of March, in this preſent year one thouſand eight hundred and three, all and every the rates impoſed under and by virtue of two ſeveral Acts, paſſed in the thirty-third and thirty fourth years of the reign of his preſent Majeſty, the one intituled, "An Act to authorize and direct the laying and collecting of aſſeſſments and rates in every Diſtrict within this Province, and to provide for the payment of wages to the Members of the Houſe of Aſſembly," and the other intituled, "An Act to amend certain parts of an Act paſſed in the thirty third year of his Majeſty's reign, intituled, "An Act to authorize and direct the laying and collecting of aſſeſſments and rates in every Diſtrict within this Province, and to provide for the payment of wages to the Members of the Houſe of Aſſembly," ſhall ceaſe and determine, and be no longer paid or payable; and the firſt nineteen clauſes, except ſo much thereof as relates to the application of the rates, and the twenty-eighth and thirtieth clauſes of the ſaid firſt mentioned Act of this Province, and the whole of the laſt mentioned Act of this Province, are hereby repealed.

Certain proviſions of former Acts repealed.

II. *And be it further Enacted by the Authority aforeſaid*, That the following property, real or perſonal, ſhall, after the ſaid firſt Monday in March, as well in the preſent year as for every ſubſequent year during the continuance of this Act, be deemed rateable property throughout this Province, and ſhall be rated at the rate or valuation herein after ſpecified, that is to ſay, every acre of arable meadow or orchard land, one pound; milch cows, per head, three pounds; oxen, of the age of four years and upwards, per head four pounds; horned cattle, from the age of two years to four years, per head, one pound; horſes, of the age of three years and upwards, per head, eight pounds; ſwine, of the age of one year and upwards, per head, ten ſhillings; griſt mills, wrought by water, with one pair of ſtones only, one hundred and fifty pounds, and for each and every additional pair of ſtones, three hundred pounds; every ſaw-mill, one hundred pounds; every merchants' ſhop, two hundred pounds; every ſtore houſe, for the reception and ſtoring of merchandize, one hundred pounds; every acre of uncultivated land, one ſhilling; every houſe in town, forty pounds; every town lot, ſituate in the ſeveral towns herein after mentioned, viz. *Sandwich*, *Amherſtburg*, *Queenſtown*, *Niagara*, *York*, *Kingſton*, *Johnſtown* and *Cornwall*, ten pounds; every houſe in the country, having two fire-places, and no more, forty pounds, and every houſe, whether in town or country, having more than two fire-places, ten pounds for every additional fire-place; every tavern, or houſe of public entertainment, over and above the rate paid for the ſame as a houſe, one hundred pounds; every ſtill, uſed for the purpoſe of making ſpirits from grain or other materials one pound, for every gallon contained in every ſuch ſtill: Provided, that any apartment in a dwelling houſe, uſually occupied

Property rateable.

cupied for the purpoſe of vending merchandizes, be rated as a merchant's ſhop, and not as an additional apartment in the houſe. Provided alſo nevertheleſs, that nothing herein contained ſhall extend, or be taken or conſtrued to extend, to any property, goods or effects, matters or things herein above mentioned and enumerated, which ſhall belong to, or be in the actual poſſeſſion or occupation of his Majeſty, his heirs or ſucceſſors.

Aſſeſſors to demand liſts of rateable property.

III. *And be it further Enacted by the Authority aforeſaid*, That the perſons nominated and choſen as aſſeſſors, in each and every pariſh, townſhip, reputed townſhip or place, ſhall, during the continuance of this Act, have power and authority, and they are hereby authorized, impowered and required, to demand and receive, of and from each and every inhabitant reſident within the pariſh, townſhip, reputed townſhip or place, for which they ſhall be ſo nominated and choſen, a liſt of all the rateable property, real and perſonal, in his, her or their poſſeſſion, which liſt ſhall be taken annually during the continuance of this Act, between the firſt Monday in March and the ſetting of the Quarter Seſſions of the peace then next enſuing: And the ſaid Aſſeſſors ſhall make a return of all the inhabitants, with a true liſt of all their rateable property, real and perſonal, as aforeſaid, at the foot of which the ſaid Aſſeſſors ſhall ſubſcribe their names, and after putting up a copy thereof in ſome public and conſpicuous place within the townſhip in which the ſame ſhall be made, ſhall return the ſame to the Clerk of the Peace, ſo as that the ſame may be by him laid before the ſaid Court of Quarter Seſſions.

Compenſation to the Aſſeſſors.

IV. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful to and for ſuch Aſſeſſors, yearly and every year during the continuance of this Act, to demand and receive of and from the Treaſurer of the Diſtrict, a ſum of money not exceeding three pounds, for every hundred pounds contributed and raiſed in and by their reſpective townſhips, reputed townſhips or places, for the year during which they ſhall ſerve that office, and ſo in proportion for any greater or leſſer ſum or ſums, and the Treaſurer of each and every Diſtrict is hereby authorized and required to pay ſuch Aſſeſſor as aforeſaid.

Apportionment.

V. *And be it further Enacted by the Authority aforeſaid*, That the Magiſtrates ſo aſſembled as aforeſaid, are hereby authorized, impowered and required, after having aſcertained the ſum of money required to be raiſed for defraying the public expences of the Diſtrict, to divide and apportion the ſame upon each and every perſon in the ſaid rate liſt named, and liable to the rates aforeſaid, ſo that every perſon ſhall be aſſeſſed in a juſt proportion to the liſt of his or her rateable property, real and perſonal, according to the rates herein before ſpecified; and having aſcertained the quota, dividend, or ſum of money which each and every perſon ſo aſſeſſed ſhall pay for the current year, they ſhall direct the Clerk of the Peace to tranſmit forthwith a certified copy of ſuch aſſeſſment roll, ſo rated and aſcertained as aforeſaid, to each and every Collector within the Diſtrict, and for each of which he ſhall be intitled to aſk, and the Treaſurer of the Diſtrict is hereby required to pay to him the ſum of ten ſhillings of lawful money, and no more, and ſuch copy certified by the Clerk of the Peace as aforeſaid, ſhall be to each and every Collector ſufficient authority for collecting the proportions or dividends within their reſpective townſhips, reputed townſhips or places: Provided always, that the ſum levied ſhall in no one year exceed one penny in the pound upon the ſum herein before ſpecified,

cified, as the valuation at which each ſpecies of the property before mentioned ſhall be rated. Inhabitants to deliver in liſts.

VI. And whereas ſeveral perſons may have rateable property in different townſhips and in different diſtricts of this Province, Be it therefore enacted by the authority aforeſaid, that every inhabitant is hereby required to give in a liſt of all ſuch rateable property to the aſſeſſors of the townſhip wherein he or ſhe ſhall reſide, the Collector whereof ſhall have authority to collect for the ſame; and ſuch perſon ſo aſſeſſed and having paid the rate, ſhall not be liable to pay the ſame in any other townſhip or diſtrict.

VII. *And be it further Enacted by the Authority aforeſaid,* That all and every the proviſions contained in the ſaid Act of the thirty-third year of his Majeſty's reign, concerning the application of the monies to be raiſed under that Act (excepting ſo far as relates to Bears) and alſo the twentieth, twenty-ſecond, twenty-third, twenty-fourth, twenty-fifth, twenty-ſixth, twenty-ſeventh and twenty-ninth clauſes of ſaid Act ſhall be, and the ſame and each and every of ſuch clauſes are hereby declared to be in full force, and all and every ſuch proviſions and clauſes ſhall be held, deemed and conſtrued to be legally applicable to the enforcing payment by the inhabitants of this Province; and the regulation in all reſpects of the rates and aſſeſſments hereby intended to be impoſed, and of every matter and thing relative to ſuch rates and aſſeſſments. Any thing herein contained to the contrary in any wiſe notwithſtanding. Former proviſions in part in force.

VIII. *And be it further Enacted by the Authority aforeſaid,* That the Clerk of the Peace in each and every diſtrict in this Province, ſhall, and he is hereby required to tranſmit, before the end of the month of November in every year, to the Clerk of the Houſe of Aſſembly for the time being, an aggregate account of the ſaid aſſeſſment, which ſhall contain a full and true ſtatement of every ſpecies of property in reſpect of which ſuch aſſeſſment was made: And the ſaid Clerks of the Peace reſpectively, are hereby authorized to demand, and the Treaſurers of each diſtrict are hereby reſpectively required to pay to each of the Clerks of the Peace, for their trouble in making up ſuch aggregate account, the ſum of ten ſhillings, which account may be in the form hereunto ſubjoined.

IX. *And be it further Enacted by the Authority aforeſaid,* That the Treaſurer of each and every diſtrict ſhall, and every of them are hereby required to tranſmit to the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government for the time being, on or before the firſt Monday in November, yearly and every year, a true and juſt copy of the account, to be, under and by virtue of the proviſions of this Act, delivered unto the Juſtices at their Quarter Seſſions, and a copy of which ſaid account the ſaid Treaſurer is hereby required, at the ſaid time in every year, to put up at the Court-Houſe, in each and every diſtrict in which ſuch Treaſurer ſhall reſide. Clerk of the Peace to tranſmit an aggregate account.

X. *And be it further Enacted by the Authority aforeſaid,* That if any of the perſons to be appointed as Aſſeſſors or Collectors under the authority of this Act, ſhall neglect or refuſe to perform the duty impoſed upon them and each of them by the proviſions herein contained, in manner and form as is herein ſpecified and declared; or if any perſon or perſons liable to pay any of the rates by this Act impoſed, ſhall neglect or refuſe to deliver in a true liſt of his, her or their rateable property, real and perſonal, to the Aſſeſſors, in Treaſurer to tranſmit account to the Governor.

manner and form herein before ſpecified, or ſhall wilfully miſtate ſuch rateable property, every ſuch perſon or perſons ſhall forfeit and pay a ſum of money not leſs than forty ſhillings, nor more than five pounds, for the firſt neglect or refuſal, and ten pounds for the ſecond, to be levied by diſtreſs and ſale of the offenders goods and chattels, and upon complaint of ſuch neglect, the Magiſtrates in Quarter Seſſions aſſembled, ſhall hear and determine the ſame, and upon ſufficient proof being produced to them of ſuch neglect or miſtatement, they ſhall iſſue ſuch warrant as aforeſaid, and ſuch ſum of money when collected, ſhall be paid into the hands of his Majeſty's Receiver General, to and for the uſe of his Majeſty, his Heirs and Succeſſors, and towards the ſupport of the government of this Province, to be accounted for to his Majeſty through the Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as it ſhall pleaſe his Majeſty to direct.

Penalty for neglect or miſtatement.

Provided always nevertheleſs, That nothing herein contained ſhall extend, or be conſtrued to extend to the uncultivated lands of any infant under the age of twenty-one years, or of any married woman, but all the other rateable property herein before deſcribed and ſpecified, and belonging to ſuch infants or married women, ſhall be held liable to contribute and to pay to the rates aforeſaid, and ſhall and may be liable to be diſtrained and ſold under a Magiſtrate's warrant for that purpoſe to be obtained, in like manner as warrants are herein before directed to be obtained in other caſes of negligence or refuſal to pay as aforeſaid.

Uncultivated lands of infants and married women excepted.

XI. *And be it further Enacted by the Authority aforeſaid*, That the aſſeſſments of the rates hereby impoſed, may be in the form hereunto ſubjoined.

XII. *And be it further Enacted by the Authority aforeſaid*, That this Act ſhall be and continue to be in force four years from and after the firſt Monday of March in this preſent year, and from thence to the end of the then next enſuing Seſſion of the Provincial Parliament, and no longer.

Continuation of Act.

FORM

FORM OF AN ASSESSMENT,

For the Township of *for the Year* *commencing* *and ending*

NAMES.	Acres of Land. Cultivated.	Acres of Land. Uncultivated.	Town Lots.	Houses. In Town.	Houses. In Country.	Houses. Additional Fire Places.	Grist Mills. Having 1 pair of Stones.	Grist Mills. Additional pairs Stones.	Saw Mills.	Merchants Shops.	Store Houses.	No. of Horses.	No. of Oxen.	No. of Cows.	No of young horned Cattle.	No. of Swine.	Taverns.	Gallons contained in Stills.	RATE.	£	s	d
A.																						
B.																						
C.																						
D.																						
																			A. B. C. D. } Assessors.			

FORM of a GENERAL ACCOUNT of all the RATEABLE PROPERTY in the District of
from the day of to the day of inclusive.

Two Hundred Persons (or as the case may be) in the above named District, have the Property hereunder enumerated.	Agregate of each Article.	Valuation. £.	s.	d.	Rate per Pound.	£.	s.	d.
Acres of Uncultivated Lands,		0	1	0				
Acres of Arable Meadow, or Orchard Land,		1	0	0				
Horses of the age of three years and upwards		8	0	0				
Oxen of four years and upwards,		4	0	0				
Milch Cows,		3	0	0				
Young Horned Cattle, from two years to four years,		1	0	0				
Number of Swine, of one year and upwards,		0	10	0				
Grist Mills, having only one pair of Stones,		150	0	0				
Additional pairs of Stones,		300	0	0				
Saw Mills,		100	0	0				
Houses in Town,		40	0	0				
Town Lots,		10	0	0				
Houses in the Country,		40	0	0				
Additional Fire Places,		10	0	0				
Gallons contained in Stills,		1	0	0				
					Total.....£.			

THE

STATUTES

OF HIS MAJESTY's PROVINCE OF

Upper Canada.

PASSED IN THE FOURTH SESSION OF THE FOURTH PROVINCIAL PARLIAMENT OF UPPER CANADA, MET AT YORK, ON THE FIRST DAY OF FEBRUARY, IN THE FORTY-FOURTH YEAR OF THE REIGN OF OUR SOVEREIGN LORD GEORGE THE THIRD, AND PROROGUED ON THE NINTH DAY OF MARCH FOLLOWING.

CHAP. I.

An ACT *for the better securing this Province against all Seditious attempts or designs to disturb the Tranquillity thereof.*

[Passed 9th March, 1804.]

Preamble.

WHEREAS it is necessary to protect his Majesty's subjects of this Province from the insidious attempts or designs of evil minded and seditious persons; And whereas much danger may arise to the public tranquility thereof, from the unrestrained resort and residence of such persons therein; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the Members of the Legislative and Executive Councils, the Judges of his Majesty's Court of King's Bench for the time being, respectively, or for any person or persons authorized in that behalf, by an instrument under the hand and seal of the Governor, Lieutenant Governor, or Person Administering the Government for the time being, or any one or more of them, jointly or separately, by warrant or warrants under his or their hand and seal, or hands and seals, to arrest any person or persons, not having been an inhabitant or inhabitants of this Province for the space of six months next preceding the date of such warrant or warrants, or not having taken the oath of allegiance to our Sovereign Lord the King, who by words, actions

Governor, &c. empowered to authorize certain persons to arrest offenders against this Act.

actions or other behaviour or conduct, hath or have endeavoured, or hath or have given juſt cauſe to ſuſpect that he, ſhe or they is or are about to endeavour to alienate the minds of his Majeſty's ſubjects of this Province from his perſon or government, or in any wiſe with a ſeditious intent to diſturb the tranquillity thereof, to the end that ſuch perſon or perſons ſhall forthwith be brought before the ſaid perſon or perſons ſo granting ſuch warrant or warrants againſt him, her or them, or any other perſon or perſons duly authorized to grant ſuch warrant or warrants by virtue of this Act; And if ſuch perſon or perſons, not being ſuch inhabitant or inhabitants as aforeſaid, or not having taken ſuch oath of allegiance, ſhall not give to the perſon or perſons ſo granting ſuch warrant or warrants, or ſo authorized as aforeſaid, before whom he, ſhe or they ſhall be brought, full and complete ſatisfaction that his, her or their words, actions, conduct or behaviour had no ſuch tendency, or were not intended to promote or encourage diſaffection to his Majeſty's perſon or government, it ſhall and may be lawful for each or any of the ſaid perſons ſo granting ſuch warrant or warrants, or ſo authorized as aforeſaid, and he and they is and are hereby required to deliver an order or orders in writing, to ſuch perſon or perſons, not being ſuch inhabitant or inhabitants as aforeſaid, or not having taken ſuch oath of allegiance, requiring of him, her or them to depart this Province within a time to be limited by ſuch order or orders, or if it ſhall be deemed expedient that he, ſhe or they ſhould be permitted to remain in this Province, to require from him, her or them good and ſufficient ſecurity to the ſatisfaction of the perſon or perſons acting under the authority hereby given, for his, her or their good behaviour, during his, her or their continuance therein.

Offenders to depart the Province, or give ſecurity, &c.

II. *And be it further Enacted by the Authority aforeſaid*, That if any perſon or perſons, not being ſuch inhabitant or inhabitants as aforeſaid, or not having taken ſuch oath of allegiance, who by any order or orders ſo delivered to him, her or them, is or are required to depart this Province within a time limited by that order, ſhould by ſickneſs or other impediment, be prevented from paying due obedience to the ſame, it ſhall and may be lawful for the perſon or perſons who hath or have iſſued ſuch order or orders as aforeſaid, or for any other perſon or perſons as aforeſaid, authorized by this Act ſo to do (the perſon or perſons acting under the authority hereby given, being firſt ſatisfied that ſuch impediment by ſickneſs or otherwiſe, ought to be admitted as a reaſon for ſuch order as aforeſaid not having been obeyed) by an indorſement in writing upon the ſaid order or orders, or otherwiſe in writing, to enlarge the time ſpecified in the ſaid order or orders, from time to time as occaſion may require, and if any perſon or perſons ſo having been required or ordered to quit this Province as aforeſaid, and not having obtained an enlargement of ſuch time, in manner herein before ſpecified, ſhall be found at large therein, or return thereunto after the time limited by any or either of ſuch orders, without licence from the Governor, Lieutenant Governor, or Perſon adminiſtering the Government for the time being, in that behalf, or in caſe any perſon or perſons who ſhall have been ſerved with any or either of ſuch order or orders as aforeſaid, or who ſhall have been permitted to remain in this Province, upon ſuch ſecurity as aforeſaid, ſhall by words, actions or otherwiſe, endeavour or give juſt cauſe to ſuſpect that he, ſhe or they is or are about to endeavour to alienate the minds of his Majeſty's ſubjects of this Province from his Perſon or Government,

Time for offenders departing the Province may be enlarged.

If after ſecurity given perſon give cauſe to ſuſpect, &c.

vernment, or in any wiſe with a ſeditious intent, to diſturb the tranquillity thereof, it ſhall and may be lawful for any one or more of the ſaid perſon or perſons ſo authorized by this Act as aforeſaid, and he and they is, and are hereby required, by warrant or warrants under his or their hand and ſeal, or hands and ſeals, to commit ſuch perſon or perſons ſo remaining at large, or returning into this Province without ſuch licence as aforeſaid, or ſo endeavouring or giving cauſe to ſuſpect, that he, ſhe or they is or are about to endeavour ſo to alienate the minds of his Majeſty's ſubjects of this Province, or in any wiſe, with a ſeditious intent, to diſturb the tranquillity thereof, to the common Gaol, or to the cuſtody of the Sheriff of the diſtrict, in ſuch diſtricts in which there ſhall be no gaol at that time, there to remain without bail or mainprize, unleſs delivered therefrom by ſpecial order from the Governor, Lieutenant Governor or Perſon adminiſtering the Government for the time being, until he, ſhe or they can be proſecuted for ſuch offence in his Majeſty's Court of King's Bench, or of Oyer and Terminer and General Gaol Delivery in this Province, or under any ſpecial commiſſion of Oyer and Terminer to be iſſued by the Governor, Lieutenant Governor, or Perſon adminiſtering the Government of this Province for the time being; and if ſuch perſon or perſons, not being ſuch inhabitant or inhabitants as aforeſaid, or not having taken ſuch oath of allegiance, ſhall be duly convicted of any of the offences herein before deſcribed, in either of the ſaid Courts reſpectively, he, ſhe or they ſhall be adjudged by ſuch Court, forthwith to depart this Province, or to be impriſoned in the common Goal, or be delivered over to the cuſtody of the Sheriff in ſuch diſtricts in which there ſhall be no gaol at that time, for a time to be limited by ſuch judgement, and at the expiration of that time to depart this Province; and if ſuch perſon or perſons ſo convicted as aforeſaid, ſhall remain in this Province, or return thereinto after the expiration of the time to be limited by the ſaid judgement, without licence from the Governor, Lieutenant Governor, or Perſon adminiſtering the Government for the time being, in that behalf firſt had and obtained, ſuch perſon or perſons on being duly convicted of ſo remaining or returning, before either of the ſaid Courts, ſhall be deemed guilty of felony, and ſhall ſuffer death as a felon, without benefit of Clergy. Provided always, That if in the execution of the powers hereby given, any queſtion ſhall ariſe touching or concerning the ſpace of time during which any perſon or perſons ſhall have been an inhabitant or inhabitants of this Province previous to any warrant or warrants having been iſſued againſt him, her or them, or touching or concerning the fact of any perſon or perſons having taken ſuch oath of allegiance, the proof ſhall, in all ſuch caſes, lay on the party or parties againſt whom any ſuch warrant or warrants ſhall, in virtue of the powers hereby given, have been granted or iſſued.

Such perſon to be committed.

Puniſhment if convicted.

Proof to lay on the perſon charged.

III. *And be it further Enacted by the Authority aforeſaid*, That if any perſon or perſons, at any time, ſhall be ſued or proſecuted for any thing by him or them done, in purſuance, or by colour of this Act, or of any matter or thing therein contained, ſuch action or proſecution ſhall be commenced within three calendar months next after the offence ſhall have been committed, and ſuch perſon or perſons may plead the general iſſue, and give the ſpecial matter in evidence for his, her or their defence, and if, upon trial, a verdict ſhall paſs for the defendant or defendants, or the plaintiff or plaintiffs ſhall become non-

If any perſon ſuing under colour of this Act become non-ſuited, &c.

ſuited,

ſuited, or ſhall diſcontinue his, her or their ſuit or proſecution, or if judgement be given for the defendant or defendants upon demurrer or otherwiſe, ſuch defendant or defendants ſhall have treble coſts to him or them awarded againſt the plaintiff or plaintiffs. Treble coſts.

CHAP. II.

An ACT *for the exemplary Puniſhment of all and every perſon and perſons who ſhall ſeduce, or attempt to ſeduce, or aid or aſſiſt, or attempt to aid or aſſiſt any Soldier to deſert his Majeſty's ſervice, or who ſhall harbour, conceal, receive or aſſiſt any Deſerter from ſuch ſervice.*

[Paſſed 9th March, 1804.]

Preamble. WHEREAS pernicious practices have for ſome time paſt prevailed in this Province, by evil diſpoſed perſons diſaffected to his Majeſty's Government, and particularly to the Military ſervice thereof, in ſeducing and deluding his Subjects who had engaged themſelves as Soldiers in ſuch ſervice, and prevailing on them to deſert, and alſo in harbouring, aſſiſting and concealing ſuch Deſerters; for remedy whereof for the future, and for the exemplary puniſhment of ſuch perſons in ſuch caſes offending, Be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and after the paſſing of this Act, if any perſon or perſons whomſoever (other than ſuch as are, or ſhall be enliſted as Soldiers) ſhall, by words or with money, or by any other ways or means whatſoever, directly or indirectly, prevail upon, procure, perſuade, or encourage, or endeavour or attempt to prevail upon, procure, perſuade or encourage any ſuch Soldier or Soldiers to deſert or leave his Majeſty's ſervice, and ſhall be thereof lawfully convicted, the Court or Judge before whom ſuch offender ſhall be ſo convicted, ſhall immediately on ſuch conviction, award and adjudge ſuch perſon and perſons ſo convicted as aforeſaid, to be committed to the common Gaol of the Diſtrict where ſuch offender ſhall be ſo tried, there to remain without Bail or Mainprize for the ſpace of ſix Calendar months; and if from the circumſtances and heinouſneſs of the crime, it ſhall be thought proper and expedient to increaſe the puniſhment, ſuch Court or Judge ſhall alſo further award and adjudge, that ſuch offender ſo convicted as aforeſaid, ſhall forfeit and pay a ſum not exceeding forty pounds, and if ſuch offender ſhall not on or before the third day previous to the expiration of ſuch impriſonment as aforeſaid pay ſuch fine, then and in ſuch caſe the ſaid offender ſhall be publicly whipped. Any perſon procuring, perſuading, &c. Soldiers to deſert, to be committed to gaol for ſix months, and if found expedient Judge may order him to pay 40l. and if not paid, to be publicly whipped.

II. *And be it further Enacted by the Authority aforeſaid*, That if any perſon from and after the paſſing of this Act, ſhall harbour, conceal, receive or aſſiſt any Deſerter from his Majeſty's ſervice, knowing him to be ſuch, ſuch perſon ſo offending ſhall forfeit the ſum of twenty pounds, and if ſuch ſum of twenty pounds ſhall not immediately on ſuch conviction being pronounced be paid into Court, the Court or Judge before whom ſuch conviction ſhall be had, ſhall forthwith award, order and adjudge ſuch offender to be committed to the common Gaol of the Diſtrict in which ſuch offender ſhall be ſo convicted, there to remain without Bail or Mainprize for the ſpace of three Calendar months, or until ſuch time, not exceeding three Calendar months, as the ſaid ſum of twenty pounds ſhall be paid. Perſons harbouring Deſerters to forfeit 20l. and if not paid, to be committed to gaol for three months.

III. *Provided nevertheleſs*, That no conviction ſhall be pronounced under the authority of this Act, in any Court or Juriſdiction whatſoever in this Province, ſave and except by indictment preferred or preſented before a Court, or Judge or Judges ſitting in the execution of a Commiſſion of Oyer and Terminer and General Gaol Delivery; nor ſhall any proſecution be carried on by virtue of this Act, if the ſame ſhall not be commenced, within ſix Calendar months next after the offence ſhall be Proſecution to be commenced

within ſix calendar months, unleſs offender ſhall leave the Province, then within 6 months after his return.

Iſſuing warrant a commencement of proſecution within this Act.

charged to have been committed, unleſs the offender ſhall within the ſaid ſix months have departed and left the Province, in which caſe it ſhall and may be lawful to commence ſuch proſecution at any time within ſix Calendar months next after ſuch offender's return into the Province, and to carry on the ſame to conviction: But it is hereby declared, that the iſſuing any warrant for the apprehending of any perſon charged with any offence againſt this Act, by any one of his Majeſty's Juſtices of the Peace for this Province, ſhall be held and deemed to be a commencement of a proſecution, within the true meaning of the proviſions herein in that reſpect contained.

Juſtices to iſſue warrants,

IV. *And be it Enacted by the Authority aforeſaid,* That in order the more effectually to prevent the eſcape of any ſuch offender or offenders as aforeſaid, it ſhall and may be lawful at any time from and after the paſſing of this Act, to and for any one or more of his Majeſty's Juſtices of the Peace, on due proof upon oath being made before him or them, that any perſon has committed any one of the offences herein before deſcribed, to iſſue his or their warrant or warrants for the apprehenſion of ſuch offender or offenders, or perſon or perſons charged with ſuch offence, and to cauſe ſuch offender or offenders, or ſuch perſon or perſons ſo charged as aforeſaid, to be brought before him or them, and upon the examination of ſuch offender or offenders, and hearing the evidence, ſuch Juſtice or Juſtices of the Peace ſhall diſcharge or commit to Priſon, or ſhall Bail ſuch offender or offenders, in like manner as by law any other perſon or perſons charged criminally is or are dealt with; ſave and except, that if ſuch Juſtice or Juſtices ſhall be ſatisfied with the evidence againſt ſuch

and to commit

offender or offenders, ſuch Juſtice or Juſtices ſhall commit ſuch offender or offenders to the common Gaol of the Diſtrict, or in caſe there ſhall be no Gaol in that Diſtrict, to the common Gaol of any adjoining Diſtrict, and ſuch offender and offenders ſhall remain ſo committed until his, or her or their trial ſhall be brought on, unleſs

or Bail, &c.

ſuch offender or offenders ſhall, with two good and ſufficient ſureties, to the ſatisfaction of the ſaid Juſtice or Juſtices, become bound by recognizance to our Sovereign Lord the King, in manner hereinafter ſpecified, (that is to ſay) if the ſaid offender ſhall be charged with having committed any offence againſt the proviſions in the firſt Section of this Act contained, then ſuch offender or perſon ſo charged, ſhall become bound in the ſum of two hundred pounds, and each of ſuch ſureties in the ſum of one hundred pounds, and if ſuch offender ſhall be charged with having committed any offence againſt the proviſions in the ſecond Section of this Act contained, then ſuch offender or perſon ſo charged, ſhall become bound in the ſum of forty pounds, and each of ſuch ſureties in the ſum of twenty pounds, conditioned in each of ſuch recognizances, for the appearance of ſuch perſon ſo charged with any offence againſt this Act, at the then next Aſſizes, or Seſſion of Oyer and Terminer and General Gaol Delivery, to be holden for the Diſtrict where ſuch offence ſhall be charged to be committed, or at ſuch other or future Aſſizes or Seſſion of Oyer and Terminer and General Gaol Delivery, to which the trial of ſuch offender ſhall for juſt cauſe be adjourned.

Proviſion for caſes in which there ſhall be no common gaol in the Diſtrict.

V. *Provided likewiſe, and be it further Enacted,* That if it ſhall happen that any conviction under this Act ſhall take place in any Diſtrict where there ſhall be no common Gaol at the time of ſuch conviction, it ſhall and may be lawful to and for the Court or Judge before whom ſuch conviction ſhall be had, to award, order and adjudge, that any ſuch offender or offenders ſo to be convicted, ſhall be committed to the common Gaol of any adjoining Diſtrict, in which there ſhall at that time be a Gaol, and alſo to order and adjudge, that any further puniſhment to be inflicted under the authority of this Act, ſhall be inflicted either in the Diſtrict where ſuch conviction ſhall take place, or in the Diſtrict to the Gaol of which ſuch offender ſhall be committed, as to ſuch Judge or Court ſhall ſeem meet: And in caſe of any commitment by any Juſtice or Juſtices of the Peace before trial, or of any commitment by any ſuch Court, or Judge or Judges as aforeſaid after conviction, under the authority by this Act given, the Treaſurer and Gaoler of the Diſtrict to the Goal of which ſuch offender, or perſon charged with or convicted of any offence againſt this

Act

Act shall be committed, are, and each of them is hereby respectively required, to allow to each person during his or her commitment or confinement there, such and the like maintenance and subsistence as is by law allowed to persons in custody under any criminal charge; and the Treasurer of the District from which such offender or person so charged or convicted shall be so sent, shall, and he is hereby required, to reimburse and pay to the Treasurer of the District in which such person shall have been confined, out of the first monies which shall come to his hands, such sum and sums of money as shall have been so lawfully expended, according to the provisions in that respect herein before contained, for the maintenance and subsistence of any such person or persons as aforesaid. Allowance to Prisoners.

VI. *And be it further Enacted*, That in case any such person or persons as aforesaid shall, by virtue of this Act, be committed before trial to any Gaol other than the Gaol of the District in which the offence shall be charged to have been committed, the Sheriff of the District in which such offence shall be charged to have been committed, shall, and he is hereby required and commanded, immediately before the Assize, or Session at which any trial for any offence against this Act shall be had, to convey such person so charged from the Gaol in which he or she shall be so confined, to the District where such offence was charged to be committed, and there to keep him or her in close custody and confinement, and have such person ready to take his or her trial at the Assizes or Session of Oyer and Terminer then next ensuing: And all and every Sheriff and Sheriffs, Constable and Peace Officers of this Province, is and are hereby required and commanded to execute and obey all and every warrant and warrants, order and orders, sentence and sentences, which shall be pronounced or issued by any such Court or Judge, Justice or Justices, as are herein before mentioned, for the purpose of carrying the provisions of this Act into execution. Sheriffs & Peace Officers to execute warrants, &c.

VII. *And be it further Enacted by the Authority aforesaid*, That all the fines, forfeitures and penalties that shall be incurred under and by virtue of this Act, shall be accounted for to his Majesty, his Heirs and Successors, to and for the public uses of this Province, through the Lords Commissioners of his Majesty's Treasury for the time being, in such manner and form as it shall please his Majesty to direct. Fines to be accounted for.

CHAP. III.

An ACT *to repeal certain parts of an Act passed in the thirty-fourth year of his Majesty's reign, intituled, "An Act to establish a Superior Court of Civil "and Criminal Jurisdiction, and to regulate the Court of Appeal," and to authorize his Majesty's Court of King's Bench in this Province, to regulate certain Fees, Costs and Charges therein mentioned.*

[Passed 9th March, 1804.]

WHEREAS the law now in force regulating the fees to be allowed to, and taken by the Clerk of the Crown, Council, Attornies, Sheriffs, and other Officers of his Majesty's said Court of King's Bench in this Province, has been found not well adapted to the present circumstances and situation of this Province, and it has been found expedient that such fees should be regulated by the Court of King's Bench, Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, 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," and by the authority of the same, That from and after the first day of the Term of Easter now next ensuing, so much of an Act passed in the thirty-fourth year of his Majesty's reign, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal," as respects the allowance of fees, or wherein or whereby fees are authorized to be taken by, and allowed to certain persons for certain services specified and set forth in the said last recited Act, and in the table of fees thereunto subjoined, shall cease and determine, and shall be, and the same is hereby declared to be repealed. Preamble. Former Acts respecting Fees repealed.

Court of King's Bench to aſcertain fees.

II. *And be it further Enacted by the Authority aforeſaid,* That from and after the ſaid firſt day of Eaſter Term next, it ſhall and may be lawful to and for the ſaid Court of King's Bench, by order or rule, or orders or rules, to be pronounced by the ſaid Court during the ſaid Term of Eaſter, or during any ſubſequent Term or Terms, from time to time to aſcertain, determine, declare and adjudge all and ſingular the fees which ſhall or may be taken, or be allowed to be taken by any Clerk of the Crown, Council, Attorney, Sheriff, Officer, or other perſon, for or in reſpect of any buſineſs heretofore done or tranſacted, or hereafter to be done or tranſacted in the Court of King's Bench, as well in civil cauſes and criminal proſecutions, as in all matters and things, cauſes and proceeding which now are, or ſhall or may be depending in the ſaid Court which regard the King's revenue, or under any Commiſſion of Oyer and Terminer and General Gaol Delivery, or under any Special Commiſſion of Oyer and Terminer, any former law to the contrary notwithſtanding.

CHAP. IV.

An ACT *to repeal ſo much of an Act paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "An Act to reſtrain the cuſtom of permitting Horned Cattle, Horſes, Sheep and Swine to run at large," as relates to Sheep, and to reſtrain the Owners of Rams from permitting them to run at large during a certain time of the year.*

[Paſſed 9th March, 1804.]

Preamble.

WHEREAS it would tend to improve the breed and increaſe the number of ſheep, if the owners of rams were reſtrained by Law from permitting them to run at large during a certain time of the year; Be it therefore Enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That ſo much of an Act, paſſed in the thirty-fourth year of his Majeſty's reign, intituled, "An Act to reſtrain the cuſtom of permitting horned cattle, horſes, ſheep and ſwine to run at large," as impowers or authorizes the inhabitant houſeholders, or the greater part of them in every diſtrict within this Province in their annual Town Meetings, to aſcertain and determine in what manner and at what periods ſheep ſhall be allowed to run at large within their reſpective Diviſions, or to reſolve that the ſame or any part thereof, ſhall be reſtrained from ſo doing, ſhall be and the ſame is hereby repealed.

Former Act authorizing Town Meetings to aſcertain Sheep running at large repealed.

Rams not to run at large between 1ſt of September and 20th December.

II. *And be it further Enacted,* That from and after the paſſing of this Act, it ſhall not be lawful for any perſon or perſons within this Province, to have any ram or rams going at large within the ſaid Province, from the firſt day of September until the twentieth day of December in each year, and if any ram or rams belonging to any ſuch perſon or perſons as aforeſaid, ſhall be found going at large as aforeſaid, ſuch perſon or perſons ſhall for every ſuch ram going at large as aforeſaid, between the ſaid firſt day of September and the ſaid twentieth day of December, forfeit and pay the ſum of twenty ſhillings, which ſhall be recovered in a ſummary way before any one of his Majeſty's Juſtices of the Peace, either upon the confeſſion of the party complained of or upon the oath of one credible witneſs, which ſum, after the party ſhall be ſo convicted, ſhall be levied by diſtreſs and ſale of the offender's goods and chattels, returning the overplus, if any ſhall ariſe upon ſuch ſale, to the party complained of, after deducting the ſaid ſum of twenty ſhillings and the charges of the ſale.

Penalty for offences againſt this Act.

Half the Penalty to be paid to the Receiver General.

III. *And be it further Enacted by the Authority aforeſaid,* That one half of the ſaid ſum of twenty ſhillings, ſhall be paid to the informer, and the other half ſhall be paid to the Receiver General, to and for the public uſes of this Province.

IV. And whereas difficulty may ariſe in aſcertaining to whom any ram or rams which ſhall

ſhall be found running at large between the ſaid firſt day of September and the twentieth day of December, in this preſent or any ſubſequent year, may belong, Be it therefore enacted by the authority aforeſaid, That it ſhall and may be lawful for any perſon or perſons finding ſuch ram or rams at large during the aforeſaid time, contrary to the proviſions of this Act, to impound ſuch ram or rams in the common pound, or confine ſuch ram or rams in ſome building within the townſhip, where ſuch ram or rams ſhall be ſo found, and to affix notice in writing, under the ſignature of ſuch perſon or perſons ſo impounding or confining ſuch ram or rams, on the outſide of ſuch pound or building, and alſo in ſome other conſpicuous place in the ſaid townſhip, (which notice ſhall be dated on the day on which the ſame ſhall be ſo affixed) of ſuch ram or rams having been found at large contrary to law, and being impounded or confined, either in the common pound or ſome other building to be deſcribed in ſuch notice (as the caſe may be) and ſuch perſon or perſons ſhall immediately proceed to bring to conviction ſuch owner or owners; and if the owner or owners of ſuch ram or rams, ſhall not within ſeven days after ſuch notice ſhall be ſo given, pay the ſaid ſum of twenty ſhillings, together with the pound-keeper's fees, and the coſts and charges attending the ſupport and feeding ſuch ram or rams during his or their confinement, (ſuch coſts and charges to be aſcertained and adjudged by the Magiſtrate before whom any conviction ſhall take place by virtue of this Act) it ſhall and may be lawful to and for the perſon or perſons who ſhall ſo have impounded or confined ſuch ram or rams, and who ſhall have convicted the owner or owners of ſuch ram or rams, of having offended againſt this Act, to expoſe ſuch ram or rams to ſale, and out of the money ariſing from ſuch ſale, to pay ſuch ſum of twenty ſhillings, together with ſuch coſts and charges as aforeſaid, in caſe the proceeds of ſuch ſales ſhall be found ſufficient to pay the ſame, and if more than ſufficient, to return the overplus to the owner or owners of ſuch ram or rams, and if ſuch proceeds ſhall be found inſufficient for the purpoſes aforeſaid, then, and in ſuch caſe, ſuch proceeds ſhall, in the firſt place, be applied in payment of the pound-keeper's fees and the coſts and charges attending the ſupporting and feeding ſuch ram or rams, and the remainder to be applied in manner following, viz. one half of ſuch remainder to the informer, and the other half to his Majeſty's Receiver General, for the public uſes of this Province.

How Rams to be dealt with, if difficulty ariſes to whom they belong.

Diſpoſition of money ariſing from ſale of Rams under this Act.

V. *And be it further Enacted*, That no proſecution ſhall be carried on under the authority of this Act, unleſs the ſame ſhall be commenced within eight days after any ram or rams ſhall be found running at large, contrary to the proviſions herein contained, nor ſhall any diſtreſs be levied under the authority of this Act, in any caſe where any ram or rams ſo impounded or confined as aforeſaid, ſhall have been ſold under the proviſions herein contained, but the proceeds of ſuch ſale or ſales only, ſhall at all times be deemed and conſidered as liable to ſatisfy the penalty and all coſts by this Act intended to be impoſed.

No proſecution unleſs within days.

VI. *And be it further Enacted by the Authority aforeſaid*, That all ſuch parts of the forfeitures and penalties as are by this Act directed to be paid to his Majeſty's Receiver General, to and for the public uſes of this Province, ſhall be accounted for to his Majeſty, his heirs and ſucceſſors, through the Lords Commiſſioners of his Majeſty's Treaſury, in ſuch manner and form as his Majeſty, his heirs or ſucceſſors ſhall be graciouſly pleaſed to direct.

Forfeitures and penalties to be accounted for.

CHAP. V.

An ACT *to promulgate the Provincial Statutes, and alſo to repeal ſo much of an Act paſſed in the forty-firſt year of the reign of his preſent Majeſty, as relates to Printing the Journals.*

[Paſſed 9th of March, 1804.]

BE it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of *Great Britain*, intituled, "An Act to repeal

peal 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," and by the authority of the ſame, That ſo much of an Act paſſed in the forty-firſt year of the reign of his preſent Majeſty, intituled, "An Act for granting to his Majeſty a certain ſum of money out of the Provincial Fund, to defray the payment of the Salaries of the Officers of the Legiſlative Council and Houſe of Aſſembly, (including the Commiſſioners to *Lower Canada*) and to defray the contingent expences thereof, and further to appropriate the ſupplies and provide for the payment of the ſame hereafter," as relates to printing and publiſhing the Journals, ſhall be, and the ſame is hereby repealed.

Former Act relative to printing Journals repealed.

II. *And be it further Enacted by the Authority aforeſaid*, That the ſum of three hundred pounds, appropriated in the aforeſaid Act for printing the Laws and Journals, ſhall be expended during the preſent year, in compiling and printing all the Acts of the ſeveral Parliaments of this Province, including thoſe of the preſent Seſſion, and the ſaid Acts ſo compiled and printed, ſhall be received from the Printer by the Clerk of the Houſe of Aſſembly.

300l. to be appropriated during the preſent year for printing all the Acts of the Province.

III. *And be it further Enacted by the Authority aforeſaid*, That the ſaid Clerk ſhall as ſoon as poſſible after receiving the ſaid Acts, ſend four copies of them to each Member of the Legiſlative and Executive Councils; four copies to each of the Judges of the Court of King's Bench, and the like number to his Majeſty's Attorney General, and alſo twenty copies to each Member of the preſent Houſe of Aſſembly, to be by them diſtributed in ſuch manner as will beſt tend to promulgate a general knowledge of the laws.

Diſpoſition of the Acts to be printed.

IV. *And be it further Enacted by the Authority aforeſaid*, That out of the ſaid ſum of three hundred pounds, ſhall be appropriated after the preſent year, the ſum of eighty pounds for the annual printing of ſuch laws as may hereafter be paſſed.

80l. appropriated for the annual printing of the Laws.

CHAP. VI.

An ACT *for granting to his Majeſty a certain ſum of Money out of the Funds applicable to the uſes of this Province, to defray the expences of amending and repairing the Public Highways and Roads, laying out and opening new Roads, and building Bridges in the ſeveral Diſtricts thereof.*

[Paſſed 9th March, 1804.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WHEREAS it would very much advance the general proſperity of this Province, if the public highways and roads already laid out in the ſeveral diſtricts thereof were amended and repaired, and new and additional roads were laid out and opened in certain parts of the Province, to which at preſent there is very difficult acceſs, and certain bridges are alſo become indiſpenſibly neceſſary, the want of which at preſent much endangers the lives of the King's ſubjects; And whereas the rates heretofore impoſed, and the duty by law required to be performed on the ſaid public highways and roads, are altogether inadequate to the ſeveral purpoſes aforeſaid, and the impoſing additional burthens by levying diſtrict rates ſufficient for the ſeveral purpoſes aforeſaid, would in the preſent circumſtances of the Province be found inconvenient, and the neceſſary proviſion can only be made out of the ſurplus of certain duties and taxes as yet unappropriated; in order therefore to defray the expences of repairing, amending, laying out and opening ſuch highways and roads, and making ſuch bridges as aforeſaid, May it pleaſe your Majeſty that it may be enacted,

and

and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That from and out of the rates and duties already raiſed, levied and collected, or hereafter to be raiſed, levied and collected to and for the uſes of this Province, there be granted to his Majeſty, his Heirs and Succeſſors, the ſum of one thouſand pounds, to be iſſued out of the fund now remaining, or hereafter to come into the Receiver General's hands, unappropriated and ariſing from ſuch rates and duties as laſt aforeſaid, which ſaid ſum of one thouſand pounds ſhall be diſpoſed of, appropriated and applied in the repairing of the roads already laid out, and in the laying out and opening new roads, and making bridges in the ſeveral diſtricts aforeſaid, in ſuch manner and under ſuch regulations as to the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, with the advice and conſent of the Executive Council thereof, ſhall from time to time ſeem meet.

1000l. appropriated for the repairing old Roads, laying out and opening new Roads, and building bridges.

II. *And be it alſo Enacted by the Authority aforeſaid*, That at any time from and after the paſſing of this Act, it ſhall and may be lawful to and for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government, by and with the advice and conſent of the Executive Council of this Province, to iſſue one or more Proclamation or Proclamations, and therein to point out and direct the particular roads, as well with reſpect to thoſe already laid out as thoſe hereafter to be laid out and opened in all and every the ſeveral diſtricts of this Province, and the metes and boundaries thereof reſpectively, upon which the ſaid ſum of one thouſand pounds ſhall be expended, and the ſame Proclamation to name ſuch and ſo many perſons as to him ſhall ſeem meet, for each and every of the aforeſaid diſtricts, as Commiſſioners for carrying the proviſions of this Act into execution, which ſaid Commiſſioners, from and after the iſſuing ſuch Proclamation, ſhall have full power and authority forthwith to proceed to repair and amend, lay out and open ſuch roads, and repair and build ſuch bridges, as in the Proclamation or Proclamations to be iſſued in virtue of this Act ſhall be named and ſpecified, as fully to all intents and purpoſes as if ſuch Commiſſioners had been in this Act particularly named.

Proclamations to iſſue.
Roads to be pointed out and Commiſſioners to be named by the Governor, &c.

III. *Provided always, and be it further Enacted by the Authority aforeſaid*, That before any Commiſſioner ſhall proceed to carry into execution the ſeveral powers and authorities by this Act conferred, he ſhall take the following Oath:

FORM OF OATH.

Oath of Commiſſioners.

"*I* A. B. *do ſwear that I will faithfully and impartially, to the beſt of my* "*ſkill and judgement, perform and carry into execution the ſeveral powers and* "*authorities in me veſted, in and by a certain Act of the Legiſlature of this Pro-* "*vince, intituled,* "*An Act for granting to his Majeſty a certain ſum of money,* "*out of the funds applicable to the uſes of this Province, to defray the expences* "*of amending and repairing the public highways and roads, laying out and* "*opening new roads, and building bridges in the ſeveral diſtricts thereof,*" *and* "*the Proclamation iſſued in virtue thereof, without favor or affection to any per-* "*ſon or perſons whomſoever, and will duly and faithfully account for all monies* "*which ſhall from time to time come into my hands, for the purpoſe of carrying* "*the proviſions of this Act into execution*—So help me God."

Which ſaid Oath ſhall be taken before any one of his Majeſty's Juſtices of the Peace in and for the diſtrict for which ſuch Commiſſioner ſhall be appointed, and a certificate of which Oath the Juſtice adminiſtering the ſame is hereby required to tranſmit to the Clerk of the Executive Council of this Province, with all convenient ſpeed, after ſuch Oath ſhall have been by him adminiſtered.

Certificate of Oath to be tranſmitted to the Executive Council.

IV. *And*

Commiſſioners, as long as they continue, to enjoy privilege excluſively, &c.

IV. *And be it further Enacted by the Authority aforeſaid,* That the reſpective Commiſſioners who ſhall, under the authority hereby given, be named for the ſeveral diſtricts aforeſaid, ſhall, ſo long as they ſhall continue Commiſſioners, have and enjoy excluſively, the right and privilege of laying out and expending ſuch monies as ſhall from time to time be appropriated by the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, with the advice and conſent of the Executive Council thereof, for any particular roads in the ſeveral diſtricts aforeſaid, without the interference of the Commiſſioners to be named for any other diſtrict.

Governor, &c. may iſſue new Proclamations and name new Commiſſioners.

Provided nevertheleſs, and it is hereby declared, That after the ſaid Proclamation ſhall have been iſſued under the authority hereby given, for all or any of the diſtricts aforeſaid, it ſhall and may be lawful to and for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, by and with the advice and conſent of the Executive Council thereof, to iſſue any new or additional Proclamation or Proclamations, and thereby to name ſuch other or additional Commiſſioner or Commiſſioners as to him ſhall meet, for all or for any of the diſtricts aforeſaid, for carrying the ſeveral purpoſes of this Act into execution; And from and after ſuch new or additional Proclamation ſhall have ſo iſſued, all and every the powers and authority given or conferred by any former Proclamation or Proclamations, ſhall ceaſe, determine, and be null and void to all intents and purpoſes, as if the ſame had never been created or given; and the Commiſſioners in ſuch new or additional Proclamation or Proclamations named, ſhall have and be inveſted with full power and authority to carry the ſeveral proviſions of this Act into execution, in ſuch and the like manner as the Commiſſioners in the previous Proclamation named might or could have done, any thing herein before contained to the contrary notwithſtanding.

In ſuch caſe powers of former Commiſſioners to ceaſe.

This Act not to repeal former Acts for compelling Labor, &c.

Provided alſo, That nothing herein contained ſhall repeal or annul, or be held or conſtrued to repeal or annul any of the proviſions in any exiſting Act or Acts of this Province contained, for raiſing or levying the rates thereby impoſed, or compelling the labour by ſuch Acts, or any of them, required to be done and performed on any of the public highways and roads compriſed in ſuch Acts, or any of them, or to repeal any of the proviſions in ſuch reſpective Acts contained, but all and every ſuch Act and Acts is and are hereby declared to be and continue in full force.

Magiſtrates, &c: not to interfere with Commiſſioners.

Provided alſo, That nothing in any former law or ſtatute of this Province contained, ſhall, from and after the paſſing of this Act, be held or conſtrued to empower or authorize any Magiſtrate or overſeer in any ſuch law or ſtatute mentioned, in any manner to interfere or give any directions touching or concerning any road or highway to be laid out, opened or repaired under or by virtue of this Act; Nevertheleſs the ſaid Magiſtrates and overſeers, and every of them, is and are hereby authorized to carry into execution all and every ſuch power and authorities as by ſuch laws or ſtatutes they are inveſted with, in all caſes in which the executing ſuch powers will not impede or interfere with the powers or authorities given in and by this Act and every Proclamation to be iſſued by virtue thereof.

Roads to be named in Proclamation, and to be deemed public Highways.

V. *And be it further Enacted by the Authority aforeſaid,* That from and after the execution of the powers hereby given, all and every the roads in all and every Proclamation and Proclamations to be iſſued under and by virtue of this Act, ſhall be held and deemed to be public highways and roads, and ſhall be ſubject and liable to all the laws and ſtatutes now in force, or hereafter to be paſſed and enacted relative to public highways and roads, as fully to all intents and purpoſes, as any of the preſent highways and roads are now or ſhall be made liable and ſubject thereto.

Proſecution for any thing done under this Act, to be commenced in three months.

VI. *Provided always, and be it further Enacted,* That if any action or ſuit ſhall be commenced againſt any perſon or perſons, for any thing done or acted in purſuance of this Act, then and in every ſuch caſe, ſuch action or ſuit ſhall be commenced or proſecuted within three calendar months after the fact committed

mitted, and not afterwards, and the defendant or defendants in any ſuch action or ſuit, ſhall and may plead the general iſſue, 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 the preſent Act; and if the ſame ſhall appear to have been ſo done, or if any ſuch action or ſuit ſhall be brought after the time limited for bringing the ſame, then the jury ſhall find for the defendant or defendants, or if the plaintiff or plaintiffs ſhall become non-ſuit, or diſcontiuue his, her or their action after the defendant or defendants ſhall have appeared, or if judgement on demurrer ſhall be pronounced for the defendant or defendants, the defendant or defendants in all and every the ſeveral caſes aforeſaid, ſhall and may recover treble coſts, and have the like remedy for the recovery thereof as defendants are in any other caſes by law entitled to.

If judgement for defendant in any ſuit, treble coſts.

VII. *And be it further Enacted by the Authority aforeſaid*, That the monies hereby granted to his Majeſty, ſhall be paid by the Receiver General, in diſcharge of ſuch warrant or warrants as ſhall for the purpoſes herein before ſet forth, be from time to time iſſued by the Governor, Lieutenant Governor, or perſon adminiſtering the Government of this Province and not otherwiſe; and the ſaid Receiver General ſhall account to his Majeſty, his heirs and ſucceſſors for the ſame through the Lords Commiſſioners of his Majeſty's Treaſury, for the time being, in ſuch manner and form as his Majeſty, his heirs and ſucceſſors ſhall be graciouſly pleaſed to direct.

Governor, &c. to iſſue warrants.

Receiver General to account, &c.

CHAP. VII.

An ACT *to explain and amend an Act paſſed in the forty-third year of his Majeſty's reign, intituled, "An Act for the better ſecuring to his Majeſty, his heirs and ſucceſſors, the due collection and receipt of certain duties therein mentioned."*

[Paſſed 9th of March, 1804.]

Preamble.

WHEREAS it is expedient to remove certain doubts which have been entertained reſpecting the property of executors, adminiſtrators and deviſees, in the unexpired term of licences for uſing and working ſtills, granted to perſons dying within the period of ſuch licence, and reſpecting the right of removing and transferring any ſtills, or aſſigning any licences for the uſing or working of any ſtill or ſtills for the unexpired term thereof; Be it therefore enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of *Upper Canada*, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of *Great Britain*, 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," and by the authority of the ſame, That in caſe of the death of any perſon having taken out a licence to work a ſtill or ſtills, and the executor, adminiſtrator or deviſee of ſuch ſtill or ſtills, or any purchaſer or purchaſers from ſuch executor, adminiſtrator or deviſee, ſhall be minded or deſirous of working the ſame for the remainder of the term for which ſuch licence or licences ſhall have been granted, ſuch executor, adminiſtrator or deviſee, or ſuch purchaſer or purchaſers as aforeſaid, ſhall, and he and they is and are hereby required within twenty days after ſuch death, to give notice thereof in writing to the Inſpector of the diſtrict in which ſuch ſtill or ſtills is or are intended to be worked, and alſo to make a requiſition upon the ſaid inſpector for a licence to be granted to ſuch executor, adminiſtrator, deviſee, purchaſer or purchaſers, to work ſuch ſtill

The Executor, &c. of a perſon who had taken out a licence to work a ſtill, or a purchaſer from ſuch Executor, &c. to give notice, and make requiſition, &c.

or ſtills for the remainder of the term for which the licence was originally granted to the teſtator or inteſtate, under whom the ſaid executor, adminiſtrator or deviſee claims title to ſuch ſtill or ſtills; and in caſe of ſuch requiſition being made by any purchaſer or purchaſers, from ſuch executor, adminiſtrator or deviſee, ſuch purchaſer or purchaſers is and are hereby required to produce to the ſaid Inſpector the receipt or acquittance for the purchaſe money for ſuch ſtill or ſtills, under the hand of the ſaid executor or adminiſtrator, before he, ſhe or they ſhall be intitled to demand the indorſation of the ſaid licence to be made in manner hereinafter directed.

And to produce receipts for the purchaſe money.

II. *And be it further Enacted by the Authority aforeſaid*, That when any perſon or perſons having taken out a licence to work a ſtill or ſtills, ſhall ſee cauſe to remove or transfer the ſame, it ſhall not be neceſſary that any ſtill or ſtills ſo removed or transfered, be again licenced previous to the expiration of the licence under which it or they were wrought before ſuch removal or transfer, otherwiſe than as herein after mentioned. Provided nevertheleſs, That the perſons intending to remove or transfer ſuch ſtill or ſtills as aforeſaid, ſhall, and he, ſhe or they are hereby required to give notice in writing to the Inſpector of the diſtrict in which ſuch ſtill or ſtills is or are intended to be worked as aforeſaid, of his, her or their intention of ſo removing or transferring ſuch ſtill or ſtills, at leaſt ten days before ſuch removal or transfer.

When any perſon ſees cauſe to remove or transfer a ſtill, not neceſſary it ſhould be again licenced;

But notice is required to be given.

III. *And be it further Enacted by the Authority aforeſaid*, That after ſuch notice ſhall have been given, and ſuch receipt produced, in the caſes by this Act required, to the ſaid Inſpector of the diſtrict as aforeſaid, it ſhall and may be lawful to and for the ſaid Inſpector, and he is hereby required to indorſe the original licence granted for the working ſuch ſtill or ſtills, in manner following, (that is to ſay),

After notice, &c. Inſpector to indorſe licence.

Form of Indorſement.

"A. B. *is hereby Licenced to work the within mentioned Still or Stills, for "the remainder of the term by this Licence firſt granted.*

"C. D. *Inſpector for the Diſtrict of*

IV. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the Inſpector in each and every diſtrict, at all times in the day time, when the ſaid ſtill or ſtills ſhall not be charged, or after having given ſix hours notice to the proprietor or proprietors, or perſon or perſons working or uſing ſuch ſtill or ſtills, to enter into any ſtill-houſe, or place where any ſtill or ſtills is or are wrought, and to meaſure each and every ſtill ſo wrought as often as he ſhall ſee cauſe ſo to do; and if the proprietor or perſon working ſuch ſtill or ſtills, ſhall refuſe to admit any ſuch Inſpector as aforeſaid to enter into the ſtill-houſe, or other place where any ſtill or ſtills is or are wrought as aforeſaid, and meaſure the ſtill or ſtills as aforeſaid, and ſhall be convicted thereof upon the oath of the Inſpector or otherwiſe, before any Juſtice of the Peace in the diſtrict, the ſaid proprietor, or perſon or perſons working ſuch ſtill or ſtills, ſhall forfeit the ſum of twenty-five pounds, to be paid to his Majeſty, his heirs or ſucceſſors, to and for the public uſes of this Province, and to be accounted for to his Majeſty through the Lords Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as it ſhall pleaſe his Majeſty to direct, which ſaid forfeiture ſhall be levied by diſtreſs and ſale of the offender's goods and chattels, and in caſe the party or parties ſo convicted as aforeſaid, ſhall not have any goods or chattels, upon which the ſaid ſum of twenty-five pounds can be levied, and any part of the ſaid ſum of twenty-five pounds ſhall remain unpaid for the ſpace of ten days after ſuch conviction as aforeſaid, then it ſhall be lawful for the Magiſtrate before whom the ſaid conviction ſhall be ſo had, to order the party or parties ſo convicted

Inſpector at all times in the day time, when, &c. to enter ſtill-houſe.

Penalty for refuſing to admit Inſpector.

to

to be committed to the common Gaol of the diſtrict, or to the cuſtody of the ſheriff thereof, there to remain without bail or mainprize for the ſpace of three Calendar months, by a warrant under the hand and ſeal of the Magiſtrate before whom ſuch conviction ſhall be had. Provided nevertheleſs, and if any perſon or perſons who ſhall be ſo convicted before any ſuch Magiſtrate as aforeſaid, ſhall conſider him, her or themſelves aggrieved by ſuch conviction, then and in ſuch caſe it ſhall and may be lawful to and for the party or parties ſo conſidering him, her or themſelves aggrieved, and he, ſhe and they is and are hereby authorized, upon giving good and ſufficient ſecurity to the ſatisfaction of the Magiſtrate ſo convicting, for the payment of the conviction money and the coſts of appeal, to bring his, her or their appeal from the ſaid conviction, in a ſummary mode, before the then next enſuing General Quarter Seſſions of the Peace for the diſtrict in which ſuch conviction ſhall take place, during which interval all further proceedings upon the ſaid conviction ſhall ceaſe, and the Magiſtrates in ſuch Quarter Seſſions aſſembled, are hereby authorized and required to hear, adjudge and determine ſuch appeal upon the merits thereof, and the determination of ſuch Quarter Seſſions ſhall be held and conſidered final and concluſive, not ſubject or liable to be removed by certiorari or otherwiſe before any other juriſdiction, and if ſuch conviction ſhall be affirmed by the ſaid Quarter Seſſions, the defendant or defendants ſhall in addition to the conviction money, pay ſuch coſts for and on account of ſuch appeal as to the ſaid Quarter Seſſions ſhall ſeem meet, and if ſuch appeal ſhall not be proſecuted and brought to a deciſion at the Quarter Seſſions next following the conviction, the Quarter Seſſions ſhall in ſuch caſe alſo award ſuch coſts to the informer, or party who had obtained the conviction before the ſaid Magiſtrate, as to the ſaid Court ſhall ſeem meet.

Appeal to the Quarter Seſſions.

Coſts to be awarded.

V. *And be it further Enacted by the Authority aforeſaid*, That in all caſes in which any perſon or perſons ſhall be proſecuted to conviction for any offence againſt this Act, or any former Act or Acts of this Province relative to the collecting duties on ſtills, and a conviction ſhall actually be pronounced, and no proviſion ſhall have been by any former Act made for compenſating the ſaid Inſpector on account of ſuch proſecution, it ſhall and may be lawful to and for the ſaid Inſpector to ſtate and make out in writing, a true and exact account of all coſts and expences by him incurred, and he ſhall alſo be admitted to make a reaſonable charge for the time by ſuch Inſpector employed or beſtowed in proſecuting ſuch offenders to conviction, which ſaid coſts, expences and charges ſhall be audited by his Majeſty's Executive Council of this Province, and ſuch ſum as the ſaid Executive Council ſhall allow on account thereof, ſhall be paid by warrant to be iſſued by the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, on the Receiver General thereof for the time being, out of any funds in the Receiver General's hands ariſing from duties on ſtills.

Proviſion for coſts of proſecution, &c.

CHAP. VIII.

An ACT *for granting to His Majeſty a certain ſum of Money for the purpoſes therein mentioned.*

[Paſſed 9th March, 1804.]

MOST GRACIOUS SOVEREIGN,

WHEREAS it is expedient that the Statute Laws of England ſhould be procured for the uſe of this Province; May it therefore pleaſe your Majeſty that it may be enacted, and be it enacted by the King's moſt Excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of Upper Canada, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of Great

Preamble.

Britain, 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," and by the authority of the ſame, That from and out of the rates and duties already raiſed and collected, or hereafter to be raiſed and collected to and for the uſes of this Province, there be granted to his Majeſty, his heirs and ſucceſſors, the ſum of one hundred and ſeventy-five pounds out of the Provincial Treaſury, from ſuch monies now remaining or which hereafter may come into the Receiver General's hands unappropriated, which ſaid ſum of one hundred and ſeventy-five pounds ſhall be appropriated and applied in purchaſing the Statute Laws of England, for the uſe of this Province, in ſuch manner as the Governor, Lieutenant Governor or Perſon adminiſtering the government of this Province ſhall think proper to direct.

175l. granted for the purchaſe of the Statute Laws of England.

II. *And be it further Enacted by the Authority aforeſaid*, That the Receiver General ſhall account to his Majeſty for the ſaid ſum of one hundred and ſeventy-five pounds, through the Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner as his Majeſty ſhall direct.

Receiver General to account, &c.

CHAP. IX.

An ACT *appropriating a certain ſum of Money annually to defray the expences of erecting certain Public Buildings to and for the uſes of this Province.*

MOST GRACIOUS SOVEREIGN, [Paſſed 9th March, 1804.]

Preamble.

WHEREAS it is highly expedient for the accommodation of the Legiſlative Council and Aſſembly of this Province and of the Courts of Juſtice therein, and for the better conducting of the public buſineſs thereof that certain public Buildings ſhould be erected for the purpoſe of the aſſembling and ſitting of the ſaid Legiſlative Council and Aſſembly, and of the ſaid Courts of Juſtice, and for the obtaining of ſuitable and convenient offices and apartments for tranſacting the public buſineſs, and for the ſecuring and preſerving of the public records, documents and inſtruments of this Province. We your Majeſty's moſt dutiful and loyal ſubjects the Commons of this Province, in Parliament aſſembled, do moſt humbly beſeech your Majeſty, that it may be enacted, and be it enacted by the King's moſt Excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of Upper Canada, conſtituted and aſſembled by virtue of and under the authority of an Act paſſed in the Parliament of Great Britain, 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," and by the authority of the ſame, That there be granted to his Majeſty, his heirs and ſucceſſors, as well in this preſent year one thouſand eight hundred and four, as in each and every year afterwards, until ſuch Buildings ſhall be erected and completed, the ſum of four hundred pounds, to be iſſued out of the unappropriated funds which now are, or during the aforeſaid period may be paid into the hands of the Receiver General of this Province for or on account of any duties or rates already impoſed by any exiſting law, or hereafter to be impoſed by any ſtatute to be paſſed by the Legiſlature of this Province, towards the erecting a building or buildings, to contain neceſſary apartments and offices for the aſſembling and ſitting of the Legiſlative Council and Aſſembly of this Province, and of the Courts of Juſtice therein, and alſo apartments for the aſſembling of the Executive Council, and offices for the conducting of the

Annual ſum of 400l. granted for the erection of public buildings,

For the aſſembling and ſitting of the Legiſlature, &c.

buſineſs,

buſineſs, under the management and direction thereof, together with proper offices for the Secretary, the Receiver General and Surveyor General of this Province, with ſuch other office or offices, apartment or apartments for the ſuitable conducting of public buſineſs, and for the ſecuring and preſerving the ſaid public records, documents and inſtruments, and all other books, papers and writings which concern or relate to the general intereſt and property of his Majeſty's ſubjects in this Province, as the Governor, Lieutenant Governor, Lieutenant Governor or perſon adminiſtering the government of this Province for the time being ſhall, by and with the advice of the Executive Council thereof order and direct.

And for ſecuring the public records, &c.

II. *And be it further Enacted by the Authority aforeſaid*, That the ſaid building or buildings ſhall be erected and built on ſuch plot or lot of ground belonging to his Majeſty, lying and being within the Town of York, as the Governor, Lieutenant Governor or perſon adminiſtering the government, by and with the advice of the Executive Council thereof for the time being, ſhall be pleaſed to direct.

To be built as the Governor, &c. in Council ſhall direct.

III. *And be it further Enacted by the Authority aforeſaid*, That it ſhall and may be lawful for the Governor, Lieutenant Governor or perſon adminiſtering the government of this Province for the time being, from time to time as occaſion ſhall require, to iſſue his warrant or warrants to the Receiver General of this Province, to pay out of ſuch funds as aforeſaid, the whole or ſuch part or parts as to him ſhall ſeem meet, of the ſaid yearly ſum of four hundred pounds hereby granted to his Majeſty for the purpoſe of this Act, and that the ſaid Receiver General ſhall account to his Majeſty, his heirs and ſucceſſors for the ſame through the Lords Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as his Majeſty, his heirs and ſucceſſors ſhall be graciouſly pleaſed to direct.

Governor, &c. to iſſue warrants on the Receiver General.

Receiver General to account, &c.

CHAP. X.

An ACT *for applying a certain ſum of Money therein mentioned, to make good certain Monies iſſued and advanced by his Majeſty through the Lieutenant Governor, in purſuance of an Addreſs.*

MOST GRACIOUS SOVEREIGN, [Paſſed 9th March, 1804.]

WHEREAS in purſuance of an addreſs of your Commons Houſe of Aſſembly to PETER HUNTER Eſquire, your Majeſty's Lieutenant Governor of your Province of Upper Canada, bearing date the fourth day of March laſt paſt, in the forty-third year of your Majeſty's reign, the ſum of three hundred and three pounds eleven ſhillings and ten-pence halfpenny has been iſſued and advanced by your Majeſty through your Lieutenant Governor, to the Clerks and other Officers of the two Houſes of Parliament, for certain contingent expences attending the laſt and preſent Seſſion of Parliament, and to enable the ſaid Clerks to provide a ſupply of Stationary for the purpoſes of the Parliament; May it therefore pleaſe your Majeſty that it may be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of Upper Canada, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act paſſed in the fourteenth year of his Majeſty's reign, intituled, "An Act to make 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," and by the authority of the ſame, That out of the ſurplus of any ſund or funds ſubject

Preamble.

to

to the diſpoſition of the Parliament of this Province, and collected under the authority of any Act or Acts thereof, now remaining, or which hereafter may be in the hands of the Receiver General unappropriated, there ſhall be iſſued and applied the ſum of three hundred and three pounds eleven ſhillings and ten-pence halfpenny, to make good the aforeſaid ſum of money which has ſo as aforeſaid been iſſued and advanced by his Majeſty through his ſaid Lieutenant Governor, in purſuance of the aforeſaid addreſs.

303l. 11s. 10½d. granted to make good the ſame ſum before advanced by the Lieutenant Governor.

II. *And be it further Enacted by the Authority aforeſaid*, That the due application of the ſaid ſum of money, purſuant to the directions of this Act, ſhall be accounted for to his Majeſty, his heirs and ſucceſſors, through the Lords Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as his Majeſty, his heirs and ſucceſſors, ſhall direct.

Receiver General to account, &c.

CHAP. XI.

An ACT *for granting to his Majeſty a certain ſum of Money, for the further encouragement of the Growth and Cultivation of Hemp within this Province, and the Exportation thereof.*

[Paſſed 9th March, 1804.]

MOST GRACIOUS SOVEREIGN,

WHEREAS it would very much encourage and promote the cultivation of Hemp in this Province, if ſome proviſion was made by the Legiſlature for the purchaſe and exportation thereof; in order therefore to make proviſion for ſo beneficial an object, as far as the preſent reſources of the Province will admit, We your Majeſty's moſt dutiful and loyal Subjects, the Commons of Upper Canada, in Parliament aſſembled, do moſt humbly beſeech your Majeſty that it be enacted, and be it enacted by the King's moſt excellent Majeſty, by and with the advice and conſent of the Legiſlative Council and Aſſembly of the Province of Upper Canada, conſtituted and aſſembled by virtue of, and under the authority of an Act paſſed in the Parliament of Great Britain, 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," and by the authority of the ſame, That from and out of any fund or funds now remaining, or which may hereafter come into the hands of the Receiver General, ariſing from and out of the rates and duties already raiſed, levied and collected, or which may hereafter be raiſed, levied and collected, to and for the uſes of this Province, there be granted to his Majeſty, his heirs and ſucceſſors, the ſum of one thouſand pounds, to be diſpoſed of, appropriated and laid out as a public ſtock or capital, applicable to the purpoſe of purchaſing Hemp, the growth of this Province, and of diſcharging the expences incident to ſuch purchaſes and the exportation and ſale thereof, in ſuch manner and under ſuch regulations as to the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, by and with the advice and conſent of the Executive Council thereof, ſhall from time to time ſeem meet.

Preamble.

1,000l. granted for the purchaſe of Hemp, &c.

II. *And be it further Enacted by the Authority aforeſaid*, That at any time or times from and after the paſſing of this Act, it ſhall and may be lawful to and for the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government, by and with the advice and conſent of the Executive Council of this Province, to iſſue one or more Proclamation or Proclamations, and therein to name ſuch and ſo many perſons within the Province as to him ſhall ſeem meet, as Commiſſioners for the purchaſing of merchantable Hemp the growth of this Province, which ſaid Commiſſioners, or any one or more of them, are and is hereby authorized and empowered to purchaſe ſuch Hemp, at and after the price or rate of forty pounds per ton.

Governor, &c. in Council to name Commiſſioners.

III. *And be it further Enacted by the Authority aforeſaid*, That from and after the paſſing of this Act, no perſon or perſons whatſoever ſhall be entitled to any further bounty over and beyond the ſaid price or ſum of forty pounds per ton, or to any premium under any Proclamation or Proclamations heretofore iſſued by his Excellency the Lieutenant Governor, for the encouragement of the growth and exportation

Perſons not intitled to bounty, after receiving 40l. per ton of Commiſſioners.

of

of Hemp, for or in reſpect of any Hemp for which the ſaid ſum of forty pounds per ton ſhall be paid under the powers hereby given; nor ſhall any bounty or premium be paid or payable for or in reſpect of any Hemp not intended for ſale to ſome one of the Commiſſioners acting in virtue of the powers hereby given, which ſhall not be claimed on or before the thirtieth day of September next, under proper and ſufficient documents to be on or before that day preſented to the perſon or perſons duly empowered or authorized to allow or pay the ſame, any former law to the contrary notwithſtanding. Provided nevertheleſs, That before the ſaid Commiſſioners to be appointed in virtue of this Act, or any of them, ſhall, under the authority hereby given, purchaſe any Hemp from any perſon or perſons whomſoever, ſuch Commiſſioners and each of them, are and is hereby authorized and required to adminiſter to the perſon or perſons offering any ſuch Hemp for ſale, the following Oath:

Bounty on Hemp not intended for ſale, not to be claimed after 30th Sept. 1804.

"*I* A. B. *do ſwear, that the Hemp which I have this day offered for ſale to* C. *a Commiſſioner appointed by his Excellency the Lieutenant Governor for the purchaſe of Hemp, and every part thereof, was raiſed within the Province of Upper Canada, by me (or by* E. *or* F.*) and that no bounty or premium has been paid or claimed for any part of ſuch Hemp, by any perſon or perſons whomſoever, ſave and except what is included in the ſum or price, for which I have offered to ſell ſuch Hemp to the ſaid Commiſſioner.*"

Oath.

And if any perſon or perſons ſhall, in taking ſuch Oath, wilfully or corruptly forſwear him, her or themſelves, ſuch perſon and perſons ſhall incur all the pains and penalties which by law perſons are ſubject or liable to, for wilful or corrupt perjury in any caſe whatſoever.

Penalty for corruptly forſwearing.

IV. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful to and for each and every of the Commiſſioners acting in virtue of the powers hereby given, to demand and receive of and from the perſon or perſons who now is or are authorized or empowered to allow and pay the aforeſaid premiums or bounties, under the ſaid Proclamation and Proclamations heretofore iſſued, the ſum of ten pounds per ton for every ton which ſuch Commiſſioners ſhall, in virtue of the authority hereby confered, purchaſe; and every ſuch ſum of ten pounds for each and every ton ſo purchaſed by the ſaid Commiſſioners, or any of them, ſhall be applied to and for the purpoſes of this Act, over and beyond the ſaid ſum of one thouſand pounds herein before granted: And ſuch perſon or perſons ſo now empowered to allow and pay ſuch bounties or premiums, is and are hereby authorized to pay ſuch Commiſſioners, or any or either of them, the ſaid ſum of ten pounds per ton on ſuch Hemp as aforeſaid, until ſuch part of the funds now in their hands, or remaining in the hands of the Receiver General, unapplied and applicable to ſuch bounties or premiums, ſhall, by ſuch payments to the ſaid Commiſſioners, and to other perſons entitled to ſuch bounties or premiums, be wholly exhauſted.

Commiſſioners may demand bounties, &c.

V. *And be it further Enacted by the Authority aforeſaid,* That it ſhall and may be lawful to and for ſuch Commiſſioners ſo to be appointed under this Act as aforeſaid, or the major part of them, in ſuch manner and by ſuch ways and means, as to them or the major part of them, at any time ſhall ſeem meet, to cauſe and procure ſuch Hemp as ſhall be purchaſed according to the proviſions of this Act, to be exported and carried beyond ſea, into that part of Great Britain called England, and there to be expoſed for ſale, and ſold for ſuch price or prices, ſum or ſums of money as ſhall and may be obtained for the ſame; and ſuch ſum or ſums of money obtained by ſuch ſale or ſales, together with ſuch bounties or premiums as ſhall or can be obtained under any Act or Acts of the Britiſh Parliament, or of the Parliament of the United Kingdom, on any ſuch Hemp as aforeſaid, after deducting all neceſſary charges, to pay to the Receiver General as applicable and to be applied to the public uſes of this Province, and the ſupport of the Government thereof.

Hemp to be exported to England and there ſold.

Britiſh bounties to be obtained.

VI. *And be it further Enacted by the Authority aforeſaid,* That the monies hereby granted to his Majeſty, ſhall be paid by the Receiver General, in diſcharge of ſuch warrant or warrants as ſhall for the purpoſes herein before ſet forth, be from time to time iſſued by the Governor, Lieutenant Governor, or Perſon Adminiſtering the Government of this Province, and not otherwiſe; And the ſaid Receiver General ſhall account to his Majeſty, his heirs and ſucceſſors, for the ſame, through the Lords Commiſſioners of his Majeſty's Treaſury for the time being, in ſuch manner and form as his Majeſty, his heirs and ſucceſſors, ſhall be graciouſly pleaſed to direct.

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END OF THE FOURTH SESSION

OF THE

Fourth Parliament.

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TO THE

PROVINCIAL STATUTES

OF

UPPER CANADA.

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ERRATA.

INSTEAD of "Fourth Parliament" at the head of pages 207, 209, 211, 213, 215, 217, 219, 221, and 223, and on the back of page 223, read "THIRD Parliament."